THE FEDERAL PENITENTIARY SYSTEM IN CANADA, 1867 - 1899:
A SOCIAL AND INSTITUTIONAL HISTORY

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ABSTRACT

The purposes of this thesis were threefold: to examine the essential features of the late nineteenth century penitentiary system, to outline its evolution, and to identify the forces promoting change and stability within the penal sphere. Chapter One discusses the influential pre-Confederation heritage. The direction of later post-Confederation penal evolution was largely determined by the theory and practice developed during the early years of penitentiary operation.

After Confederation, federal penal institutions, prison staff, and penitentiary administration provided a framework for other developments in the system. In examining this framework, Chapter Two highlights the centralization of power and rationalization of administration that were expanded to unify and control the dispersed and distinctive institutions under federal control.

Penitentiaries were expected to serve certain basic purposes, and those purposes shaped the content of the system. Chapters Three and Four explore the impact of the aim of convict reformation. Inmates were disproportionately
drawn from the labouring class, and explanations of crime reflected that fact. The result was a penitentiary rehabilitation process that attempted to pass on Victorian values and habits to labouring class convicts.

The attempt to reform the convict occurred within the framework of reformatory prison discipline, a broad approach embraced first by pre-Confederation inspectors. This theory prescribed rewards and penalties to move prisoners through stages of improvement. In an effort to establish this scheme, penal authorities and politicians after Confederation instituted a range of incentives for penitentiary prisoners. The introduction of parole federally in 1899 represented a last implementation of the techniques encompassed by reformatory prison discipline.

Despite the importance of this penal theory, its influence waned in the 1890s. During the last decades of the century, penal authorities and reformers increasingly identified different types of prisoners on the basis of degree of criminality. Distinctive measures were applied to recidivists and to first offenders in a departure from the single disciplinary stream that had been accepted at Confederation.

Another basic purpose of the penitentiary was to inflict punishment. This goal is discussed in Chapter Five. Punishment was justified in various ways, but its presence was a consistent fact of penitentiary life in the period. However, the application of punitive measures altered between 1867 and 1899 in response to the increasing perception of varying types
of convicts. That perception supported a movement towards differential punishment on the basis of the prisoners' records. Through the late nineteenth century, as Chapter Six demonstrates, pressure towards economy helped to shape the penitentiary reality. This pressure lent considerable importance to the persistent contemporary search for suitable and remunerative prison industries. For the convict, however, the basic fact of confinement was a punitive, institutional environment. That environment and the prisoners' reaction to it are explored in Chapter Seven.

Following lines largely set in the pre-Confederation period, the federal penitentiary system went through an important stage of development between 1867 and 1899. The influence of bureaucratic values in penitentiary administration intensified in that period, and new penal measures were introduced under the aegis of reformatory prison discipline. Yet within this context of penal evolution, the institutional character of the penitentiary, its class-directed nature, and its long-standing goals of punishment and reformation were basic enduring realities. For the convict, too, the essentially punitive nature of prison life altered little in the period.
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PREFACE

The purposes of this thesis were threefold: to examine the essential features of the late nineteenth century penitentiary system, to outline its evolution, and to identify the forces promoting change and stability within the penal sphere. In pursuit of these aims, Chapter One outlines the pre-Confederation penal heritage of the federal system. Penitentiaries originated in British North America in the early nineteenth century. Prior to 1867 the operation of the penitentiary was well-established and penal theory underwent a significant evolution. In general, the main lines of post-Confederation penal development were set in the pre-Confederation period.

Penal institutions, prison officers and penitentiary administration provided a framework for other developments in the post-Confederation penitentiary system. Chapter Two examines the establishment of the federal penitentiaries, the character and organization of the prison staffs, and the ways in which penitentiary operation was directed. The long-time tendency in penal administration towards the centralization of power and the rationalization of procedures, was intensified in the post-1867 period. Developments in this area were largely a response to the problem of unifying and controlling the dispersed penitentiaries under federal authority.
Penitentiaries were expected to serve certain basic purposes, and those purposes shaped the content of the system. Chapters Three and Four explore the impact of the aim of convict reformation. Penitentiary inmates were disproportionately drawn from the ranks of the labouring class, and contemporary explanations of crime reflected that fact. The characteristics and habits of convicted criminals from the bottom of the social structure were identified as causes of crime. The result was a penitentiary rehabilitation process that attempted to pass on Victorian values and habits to labouring class prisoners.

The attempt to reform the convict occurred within the framework of reformatory prison discipline. This was a plan of convict management that prescribed incentives and penalties to move inmates through stages of improvement. At Confederation, penal authorities embraced the Crofton system from Ireland, a specific form of reformatory prison discipline. However, the general reformatory prison discipline approach was influential through most of the period. In an effort to establish this scheme, penal authorities and federal politicians after 1867 moved to introduce a range of rewards for well-conducted inmates. The inauguration of parole in 1899 represented a last implementation of the techniques encompassed by this theory.

Despite the importance of reformatory prison discipline, its influence waned in one major respect during the 1890s.
In the last two decades of the nineteenth century, penal authorities and reformers increasingly identified different types of criminals on the basis of degrees of criminality. Most commonly recidivists were distinguished from first offenders. Different measures were applied to those two categories of prisoners. This was a departure from the single disciplinary stream for all inmates that had been accepted at Confederation.

The aim of punishment was linked with the ideal of convict rehabilitation in the theory of reformatory prison discipline. Chapter Five explores the other justifications of the infliction of punitive measures on those in confinement. This chapter also outlines the evolution between 1867 and 1899 in the nature of prison penalties and in the way they were applied. Humanitarian concern prompted some changes, but the major transition towards differential punishment on the basis of the prisoners' records was the product of a growing perception of varying types of criminals.

Chapter Six examines a further influence upon the content of the system. This was a concern for economy in prison matters shared by contemporary penal officials and politicians. The aim of economy contributed to the importance of the persistent late nineteenth century search for acceptable and remunerative prison industries. Contract labour was abandoned in the 1880s, and a number of less than satisfying alternatives were explored in the years that followed. That experimentation set patterns for the future.
There were many noteworthy aspects of the penitentiary system, but for the prisoner the compelling reality was that of a punitive institutional environment. Chapter Seven outlines the nature of that environment in detail, and explores the reaction of the convicts to the imprisonment experience. Apparently, the main preoccupation of most prisoners was to get free of the penitentiary. Consequently, in Chapter Seven the various convict reactions to confinement are treated as differing means of achieving that common, compelling goal.

Continuing the pattern of pre-Confederation penal evolution, the post-Confederation federal penitentiary system went through an important phase of development between 1867 and 1899. The influence of bureaucratic values in penitentiary administration intensified in that period, and new penal measures were introduced under the aegis of reformatory prison discipline. Yet within this context of penal evolution, the institutional character of the penitentiary, its class-directed nature, and its long-standing goals of punishment and reformation were basic enduring realities. For the convict, too, the essentially punitive nature of prison life altered little in the period.

Abbreviations

C.S.C. Solicitor General's Department, Correctional Staff College, Kingston, Ontario

P.A.C. Public Archives of Canada

P.A.O. Provincial Archives of Ontario
CHAPTER ONE

THE PRE-CONFEDERATION PENAL HERITAGE

Specific responses to the long-standing problem of crime in Canada have altered considerably over time. However, the establishment of penitentiaries in British North America in the early nineteenth century represented a basic departure from previous methods of dealing with convicted criminals. As part of a broader institutional approach to social problems, the penitentiary promised to punish and to reform felons within a controlled environment emphasizing regularity and order. While many of the features of the penitentiary derived from its institutional character, other factors shaped the nature and functioning of the prison as well. The purposes that the penitentiary was expected to serve, penal theory, and the requirements of administration were all influential. Moreover, the broader British North American social reality was also important to the founding of the penitentiary and to the way in which it took form through the nineteenth century.

The years between 1867 and 1899 constitute a significant stage in nineteenth century penitentiary development. At Confederation, when the three existing prisons--Kingston Penitentiary, St. John Penitentiary, and Halifax Penitentiary--were placed under the control of the central government, the federal
penitentiary system was created. In the three decades that followed, the evolution of that system was marked by an increasing rationalization and centralization of administration. In the face of mounting opposition to the contract labour system, federal prison authorities explored new means of employing inmate labour to produce profit. The nature and application of prison punishments were altered and, most significantly, a new and comprehensive scheme of prison discipline employing rewards and punishments to manipulate convict conduct, was largely implemented. By 1899, however, the theoretical inspiration of penal change during the previous three decades was exhausted. The federal penitentiary system had been formed into a shape that would long endure.

It is clear, however, that post-Confederation penal development did not break sharply with the past; rather, it built upon previous theory and practice. More particularly, despite the existence of penitentiaries in Nova Scotia and New Brunswick in 1867, the later federal penitentiary system drew on the prison experiences and traditions of the Province of Canada alone. There were several bases for this predominance of the central Canadian model. First, the Nova Scotia and New Brunswick prison systems were rudimentary, indeed, in comparison with penal arrangements in the Province of Canada. This lack of sophistication was reflected in the two Maritime penitentiaries in existence at Confederation, one at Halifax and the other near Saint John.
Nova Scotia's major penal institution, Halifax Penitentiary, was situated on twelve acres of property, "about one half of this being broken by rocky hills", about two miles from the city of Halifax on the North-West Arm of Halifax harbour. The main prison building was a rectangular granite structure forty-two feet wide and one hundred and forty feet long. It was encircled by a masonry and rock wall thirteen to fifteen feet high. Inside the prison were eight cells for female prisoners, each measuring 6'10" by 3'4". Three, thirty-cell tiers provided accommodation for male inmates. These latter cells, each one 7'6" long, 3'6" wide and 7'10" high, were placed back to back, surrounded by a corridor. Wings running south east from each end of the main building housed store rooms, a dining hall, and a stone shed.

While this block plan and the cell layout of the Halifax Penitentiary were unexceptionable, the penal and administrative practices at the prison were subject to contemporary criticism. In fact, in its operation Halifax Penitentiary was anything but a potential model for federal prison authorities in 1867. Record keeping at the Halifax Penitentiary was negligible by central Canadian standards. As a result, two federal Directors of Penitentiaries who visited the prison in 1868 discovered to their surprise:

that no books of account had been kept at the Penitentiary, and they may say, no Books of any description, except the Prison Register.

Moreover, the Directors found that those few financial records that were kept were in a highly confused state:
the accounts, previous to the inauguration of the Dominion had been kept mixed up with the General Accounts of the province of Nova Scotia, and it was impossible for the Directors to ascertain any information as to financial transactions, previous to that date.

Halifax Penitentiary confined convicts of differing degrees of criminality from across the province. The only restriction on felons sent to the prison was a three-month minimum sentence. This posed difficulties for the management of the institution because measures that were appropriate for long-term prisoners were not always useful in dealing with minor offenders. Moreover, neophytes in crime were open to corruption by more experienced prisoners when the two groups were confined within the same institution.

In 1867 a British government survey of penal practices in Britain's colonies painted a dismal picture of the situation at Halifax Penitentiary. The Halifax prison lacked a "proper system of inspection by an official inspector", and the Nova Scotia government had failed to enforce a uniform system of prison discipline or "a proper system of reports". In fact, Halifax Penitentiary was judged by the British inquiry to be "without any rules" at all. In 1864 the management and power of appointment for the prison had been placed under the Board of Works, and this had meant that the direction of Halifax Penitentiary was ultimately in the hands of persons with no special knowledge of penal matters. At Confederation Nova Scotia's major penal institution was evidently in a sorry state.
The chief prison of the colony of New Brunswick was constructed in 1840 on a twenty-five acre site about two miles from the city of Saint John. This St. John Penitentiary was comprised of a stone building surrounded by an insubstantial wooden fence that added little to security:

The present fence is made of palisades, about ten or twelve feet above the surface of the ground, but so dilapidated, in places, as to form but little impediment to a convict contriving an escape.

The main prison building contained ninety cells, back-to-back, in three tiers. The dimensions of these cells were reasonably generous for the day, male compartments being seven feet long, four feet wide and seven feet high and female compartments measuring seven feet in length, four feet, four inches in width, and six feet, eight inches in height. In general, however, the architecture of St. John Penitentiary was quite orthodox.

Yet, administratively, St. John Penitentiary was afflicted with many of the same defects as its Nova Scotian counterpart. Penitentiary accounts were mixed up with those of the other public institutions of New Brunswick. The prison's chief officer was handicapped by a lack of authority over staff hiring and dismissal. In addition, every class of offender in the province was liable to be committed to the penitentiary, and the result was continual overcrowding. With no school, St. John Penitentiary had little beyond a few prison industries to raise it above the level of a common gaol.
It would appear that the deficiencies of the two maritime penitentiaries might have been sufficient in themselves to ensure the dominance of the central Canadian penal example in the post-Confederation penitentiary system. However, the place of the former Province of Canada in Confederation was a further factor contributing to the same result. The unification of the three major British North American colonies at Confederation was itself largely the product of an expansionary pressure exerted by the Province of Canada in a direction designed to solve many of her problems. The makeup of the federal prison bureaucracy after 1867 reflected a corresponding general central Canadian dominance in the new Dominion of Canada.

It has been suggested by one political scientist, J.E. Hodgetts, that bureaucratic decentralization was necessitated by the size of the Province of Canada before 1867 and that it continued to be a feature of post-Confederation federal administration. In the federal prison system, decentralization was manifested in the individual penitentiary administrations headed by the wardens. However, the first federal Penitentiary Act centralized control of the system as a whole in the Board of Directors of Penitentiaries, and significantly, bureaucrats from the former Province of Canada predominated in this power centre.

A pre-Confederation Canadian Board of Inspectors of Asylums, Prisons and Public Charities continued its duties after 1867 with respect to all federal penitentiaries, until creation of a Board of Directors of Penitentiaries in 1868. Three of
the four Inspectors at that time, James M. Ferres, Terrence J. O'Neil and Fr. Zep. Tassé, composed the new Board of Directors. The fourth member of the earlier provincial Board, Edmund Allen Meredith, was transferred to another section of the federal civil service in 1867. Nevertheless, Meredith played a decisive role in framing the first federal Penitentiary Act of 1868. In general, these Board members with penal expertise, and the politicians they advised, looked immediately to the central Canadian prison system with which they were familiar in legislating for the penitentiaries of the new Dominion. The prison practice and theory of the Province of Canada continued on the federal level after 1867, with lessened institutional variety, but on a broader geographic stage.

II

Within the British North American context, the penal system of the Province of Canada at Confederation was highly sophisticated. A central Canadian penitentiary had been built near Kingston in the early 1830s and had been opened for prisoners in 1835. Penitentiary confinement gained acceptance in the years that followed as a punishment for the majority of serious offences. The penal arrangements and the penal philosophy applied at the Provincial Penitentiary underwent a significant evolution in pre-Confederation years and a body of prison administrative practices was developed during the same period. Through the decade of the 1860s, too,
central Canadian penal inspectors advocated a system of re-
formatory prison discipline that proved to be a central part
of the pre-Confederation heritage to the federal peniten-
tiary system to follow.

Prior to the establishment of the Provincial Penitentiary,
crime in Upper Canada was dealt with by methods that did not
involve lengthy imprisonment. Sentences to the stocks, the
pillory, a fine, public whipping, short gaol terms, branding,
banishment and execution, were variously applied. Lawless-
ness was not a pressing social problem in early Upper Canada
and property offences were rare. It has been argued, too,
that crimes against the person were not regarded as serious
in that early time when human lives often fell prey to natural
calamities. Eighteenth century English criminal law was
adopted intact in Upper Canada. This meant the application of
"one of the bloodiest criminal codes in Europe" of that day.
In early Upper Canada, however, flexibility in the administra-
tion of justice and the trivial nature of most offences com-
bined to produce a legal system that was "lax, cheap and
expeditious" in its effect.

The penitentiary represented an important innovation in
the early nineteenth century Upper Canadian response to crime.
One individual, H.C. Thompson, played a leading part in the
establishment of a penal prison in Upper Canada. As editor
of the Kingston Upper Canada Herald and member of the assembly
until his death in 1834, Thompson initially pressed the legis-
lature to inquire into the possibility of a penitentiary.
He later acted as a commissioner to select a system of discipline for that institution and to oversee the actual construction. Significantly, however, social conditions in Upper Canada in the 1830s were also conducive to the new approach Thompson advocated to control crime.

By the 1830s the composition of Upper Canadian society was changing. British immigration to the colony after the War of 1812 had already brought many indigent persons who became a charge on the community. Facing prejudice from other sectors of society, the customarily-unskilled, poverty stricken southern Irish in particular, had little prospect of gaining independent wealth in the new land. Moreover, from 1825 official Upper Canadian policy aimed at increasing the cost of taking up land in order to promote the creation of a pool of labour. Poor, landless immigrants often ended up in the cities. There they posed a threat to established social values, values often entrenched in law.

The wave of immigration to the Canadas in the first half of the nineteenth century, in conjunction with Upper Canadian land policy, contributed to an increase of class differences in Upper Canada. This process was most evident in the urban centres of the colony. By the 1830s the populations of the principal Upper Canadian towns included a significant upper class with increasing property to protect and an expanding lower class composed largely of immigrants with little prospect of economic independence and, consequently, less reason to respect property rights. In the context of this
juxtaposition of the propertied and the poor, lawlessness in
the urban setting was viewed as an acute problem.

Upper Canadians in the 1830s expected that the penitentiary
would be a more effective response to crime than the penal
methods previously employed in the colony. Gaols stood con-
demned for the lack of discipline and the indiscriminate mix-
ing of prisoners which often marked those places of detention.

Capital punishment exhibited disadvantages, too, in that it
was rarely put into effect. From the late eighteenth cen-
tury British reformers argued that the wholesale provision
of the death penalty was an ineffective deterrent, and British
thought influenced Upper Canada in its adoption of the alternate
punishment of hard labour in the penitentiary.

Upper Canadian authorities looked to the American example
when planning the Provincial Penitentiary. This was quite
natural. The 1820s and 1830s were decades of dynamic prison
development in the north eastern United States. Two rival
prison systems, the Auburn system of New York State and
Philadelphia's solitary system, contended vigorously for
widest acceptance. Both were solitary in principle, included
enforced labour, and aimed at restraint, "exemplary punish-
ment" and reformation. The Philadelphia system called for
continuous solitary confinement while the Auburn method com-
bined solitary confinement at night with congregate labour
in strict silence by day. France, England, and Prussia were
attracted by these two American penal experiments in the 1830s
and sent observers to the United States to study them.
Yet, while these European countries were enthusiastic about the Philadelphia system, Upper Canada adopted the regimen of its Auburn rival.

In 1832 two Upper Canadian commissioners, appointed to inquire into American systems of convict management, presented their report. They favoured the Auburn plan as a practical scheme that had been proven in operation, while the Philadelphia system was considered experimental. Yet, cost was another difference between the two American prison systems. Continuous solitary confinement cells were usually more spacious than Auburn system cells. This in-turn meant large and expensive prisons under the Philadelphia plan. Nor did the greater economy of the Auburn system end with lower construction costs. Congregate labour, with the possibility of labour contracts, was considerably more remunerative to the prison than the individual cell work associated with continuous solitary confinement. The two Upper Canadian Commissioners canvassing American prison methods in 1832 noted this feature of the Auburn system. With congregate labour, they remarked approvingly,

it is evident that the convicts can at least be made to support the establishment by their own labour.

The long-established societies of Europe could bear with equanimity the high cost of the solitary system which they judged to be penologically superior. However, the developing colonies and States of North America were less able to divert any more capital that was strictly necessary to
nonproductive purposes. Consequently, the economic advantages of the Auburn system were undoubtedly a factor in its spread to Upper Canada, as well as to much of the settled United States.

Public debate in Upper Canada in 1833 focussed on the purposes of the Provincial Penitentiary being built at that time. Penitentiary confinement was expected to be a punishment that would ensure "expiation of crime", the deterrence of potential lawbreakers, and the "protection of society". Incarceration was also to further the end of convict reformation. Since the Auburn system promised to serve these punitive and reformative purposes of the penitentiary effectively, at less public cost than the Philadelphia system, there was much to recommend the Auburn plan to Upper Canadian legislators.

One hallmark of the Auburn system was the interdiction of all communication between convicts. This was to be achieved through a rule of silence enforced by constant surveillance and the rigorous use of flogging. In effect, the Auburn system sought to compel through discipline that separation of convicts which the Philadelphia plan ensured by prison structure. The "preservation and due effect of the whole system of discipline" at the Provincial Penitentiary were seen to depend on the prohibition of all convict intercommunication. The rule of silence was also valued as a safeguard against the moral contamination of the convicts in a "school for crime" situation. As prison officials were
fully aware, the risk of such corruption was enhanced by the physical proximity of convicts during daytime labour.

The separation of prisoners enforced by strict discipline and corporal punishment was highly punitive in its effect. Hard labour was an important aspect of penitentiary punishment too. The 1834 Penitentiary Act prescribed constant employment at hard labour for all able-bodied convicts not being punished by solitary confinement for penitentiary misconduct. Clothing and bedding "of coarse materials", a diet of "a sufficient quantity of inferior and wholesome food", undeviating routine and the probability of quick punishment for infractions of the rules all combined to round out a punishing regime for the first inmates of the Provincial Penitentiary.

The theory of the Auburn system called for breaking the convict's spirit and bringing him to submission. Prisoners were clothed in degrading uniforms and were subjected to the humiliation of being viewed by visitors as parts of the humbling process in New York State system. These two measures were adopted at the Provincial Penitentiary. New York authorities were disagreed on the next step. Some stressed a religious and educational rebuilding of the felon, while others urged merely a maximum exploitation of convict labour. In Upper Canada, however, attention was paid to both of these aims.

Upper Canadian authorities expected that convict labour would be hired out by contract to help defray the operating
costs of the Provincial Penitentiary. John B. Macaulay, a wealthy Kingston businessman and a commissioner overseeing construction of the new prison, was one such authority who refused to abandon his hopes for the contract system, even in the face of complaints raised in 1834 by certain Kingston mechanics worried about future competition from convict labour. In response, Commissioner Macaulay maintained his support of the contract system, qualified by the concern that inmate labour should be contracted out at fair rates. The contract system was not fully established at Kingston Penitentiary until the 1850s. Yet, the possibility of revenue from contract labour was a feature of the Auburn system that was valued from the start.

Several specific measures were taken at the Provincial Penitentiary to further convict reformation. The 1834 penitentiary statute ordered that every literate convict be given a Bible. A chaplain was placed on the prison staff to conduct services on Sundays and to give religious advice to the convicts. Penitentiary officers were charged with setting "an example of propriety and decorum" for the convicts, an example that presumably some of the latter might imitate. Classes were initially established to teach the convicts to read and spell. These classes were soon cancelled, however, because they clashed with the aim of stopping communication between convicts.

Significantly, the aim of reformation was more important than the mere provision of a chaplain and Bibles suggest.
In theory at least, the Auburn discipline system as a whole had a reformative thrust much valued by its New York State promoters. The Auburn plan aimed to isolate the convict from his fellows and from the outside world under a strict regimen encompassing hard labour and a seldom-varying routine. The punitive features of the system were to subdue the convict and make him receptive to those religious ministrations which were provided. Through penitence, reformation would be attained. Although punishment was valued in its own right, it was also expected to further the redemption of the inmates of the penitentiary.

It is evident that the goal of convict reformation was a prominent concern for at least some of those persons connected with the construction and operation of the penitentiary in Upper Canada. In 1833, for example, Rev. B.C. Smith, chaplain at Auburn Penitentiary, felt it necessary to reassure J.B. Macaulay, then an Upper Canadian commissioner for penitentiary construction, about the reformative potency of the Auburn plan:

We have yet perceived nothing, within the philosophy of the Philad. [sic] mode of discipline, or in its actual results, to make us suspect that their system, in its reformatory tendency, will ever eclipse our own. 52.

Official statements of intentions for the Provincial Penitentiary cited the aim of convict reformation, and the reports of various penitentiary officials after the opening of the prison highlighted, on occasion, the reformation goal. In 1836 a prominent Reform member of the Upper Canadian
assembly, Dr. Charles Duncombe, presented a report to the legislature on prisons and penitentiaries. His doubts about flogging in penitentiaries and his belief in education as a reformative tool were views which, although not foreign in his day, were to be more widely accepted by prison reformers in the 1840s. However, Duncombe's stress on the moral reformation of convicts was in harmony with the aims of a number of the founders of the penitentiary.

As an all-encompassing system designed to further both reformation and punishment, the Auburn plan influenced prison architecture as well. William Powers, a former Deputy Warden of Auburn Penitentiary, was appointed superintendent of construction for the Provincial Penitentiary to ensure that it followed the Auburn pattern in its structure. Initially, only one cell wing was built on the one-hundred-acre site near Hatter's Bay, about one mile west of Kingston, but four wings radiating from a central rotunda were slated for eventual construction. The intent of the plan was to facilitate the surveillance of each cell block from a central location. Avenues between the ranges of cells were to serve a similar purpose. By using these passageways the keeper was enabled "to secretly pass from the centre to any part of the prison in a moment, and trace any noise to its source, without any danger of being thwarted by other convicts." To ensure the security of the institution "the construction was heavy and solid,[and] the walls both inside and out were unusually thick."
On Colonel Powers' recommendation cells at the Provincial Penitentiary were made smaller than those at Auburn. This was felt to be feasible because the men were to eat in a dining hall at the Provincial Penitentiary, not in their cells as was the case at Auburn. The first cell block at the new Upper Canadian penitentiary contained about one hundred and fifty cells. Those cells were diminutive and austere:

each cell...measured eight feet four inches in length, seven feet six inches in height, and thirty inches in width. Each had a grated window thirty-six by twenty inches in size and a grated door six feet by twenty inches. Its only furniture was a bed which was hinged to one side and when occupied covered all the cell except a foot or two near the door, and a bucket.

Workshops and other buildings were built apart from the cell block but within the wooden wall that first enclosed the prison. Together with the cell wing these buildings comprised the physical plant of the penitentiary in its first stage. However, the Provincial Penitentiary, or Kingston Penitentiary as it became known, was to be added to and altered through the remainder of the nineteenth century.

As a total approach to convict management the Auburn system gave way to modifications of practice and newer penal theory long before 1867. Yet many of the features of the Auburn system persisted in the later federal prison system. The rule of silence remained on the books until well into the twentieth century, despite erratic enforcement and widespread evasion. The aim of reducing the new prisoner to submission held a prominent place in the penal theory which succeeded
the Auburn plan. The desirability of contracting out convict labour to private parties held sway with penal authorities for many years. Paid public admission and degrading brightly-coloured prison clothing continued as features of the federal system. Stress upon religious reformation and upon the role of the chaplain as a reformatory agent endured through the nineteenth and twentieth centuries alongside faith in newer disciplinary means of changing convict behaviour. Moreover, the Auburn prison design continued to inspire much of Canada's penitentiary architecture in the post-Confederation period.

In addition, a number of prison practices not specifically related to the Auburn system were established in the Provincial Penitentiary's first years, and many of these were long-lived as well. Discharge clothing and a small gift of money were provided for released convicts under 1834 penitentiary legislation. That 1834 statute also required the keeping of prison accounts and a sick register, the submission of annual reports by the Warden and the Board of Inspectors, the posting of a monetary bond by the Warden for faithful performance of duty and the purchase of rations by contract. All these administrative devices were expanded in later years. The rigid, explicit rules for both staff and convicts that were a feature of Canada's nineteenth century prison system also had their birth in this early period.
III

Through the first three decades of Provincial Penitentiary operation the Auburn system lost its vitality as an all-encompassing approach to convict discipline. Overcrowding and the need to employ many convicts on prison construction hindered the application of the Auburn methods. More significantly, however, innovations at the prison undercut Auburn discipline and new penal ideas departed from the theory of the Auburn plan.

Penal reformers in Canada in the 1840s, like their counterparts in Britain and the United States, sought a lessening of what was seen as needless severity in prison treatment. In common with those who originally founded the Provincial Penitentiary, later critics of the penitentiary regimen were concerned about the reformation of convicted felons. Yet, while early penitentiary discipline was directed towards breaking the convict so that he could be made anew, reformers in the 1840s stressed the need for kindness as well as stern measures in redeeming the inhabitants of the prison. This shift in emphasis came amid a humanitarian reaction against what many people felt were punitive excesses in the operation of the Provincial Penitentiary.

Criticism was levelled at the penal system in the 1840s through several agitations, including an outcry in 1846 against the flogging of female offenders. However, a central focus of reform in the decade was a Royal Commission appointed in 1848 to inquire into affairs at the Provincial Penitentiary.
This inquiry is familiar to historians largely because of its ramifications for two leading political figures of the day, John A. Macdonald and George Brown. Nevertheless, the report of this commission holds at least as great a penological as a political significance. The Brown Commission, as this inquiry was popularly named, revealed a range of abuses and shortcomings at the penitentiary. Its report reflected contemporary penal reform wisdom in its recommendations. In addition, the Brown Commission's findings influenced the course of central Canadian penal development in the decade following 1849.

The immediate cause of the inquiry was complaints of abuses and management at the Provincial Penitentiary. The investigation of the Commission proved these charges to be well founded. Later commentators have offered varying explanations for the inadequacies apparent in Provincial Penitentiary operation by 1849. The weaknesses of the long-time warden of the prison, Henry Smith, such as his inability to get along with his subordinates, are generally accepted now as one cause of the troubles. The Commission, itself, found Smith guilty on an extensive array of charges and recommended his permanent removal. A second source of abuses at the penitentiary was the Auburn system of convict discipline. The Brown Commission condemned undue severity in the treatment of prisoners as a glaring defect in Provincial Penitentiary discipline. In the course of their inquiry two members of the commission, George Brown and William Bristow, visited a number of American prisons. These commis-
sioners clearly favoured a middle course in penal discipline, one that employed a degree of kindness calculated to reform felons in conjunction with sufficient punishment to ensure deterrence. In the view of the commissioners, discipline at the Provincial Penitentiary had gone to punitive extremes.

With its prescription of immediate and severe punishment to prevent communication among convicts and to enforce prison rules, the Auburn plan had sharply punitive ramifications in practice. Consequently, while some of the instances of convict maltreatment discovered by the inquiry stemmed from misconduct on the part of officials, other abuses, such as heavy punishments for talking, laughing or staring, can be attributed to Auburn disciplinary requirements. Certainly, in New York State the rigorous application of Auburn methods had led to a similarly punitive result.

Even if the Auburn system had reformed prisoners as it was supposed to do, the reformers to the 1840s would almost certainly have been appalled at the stern measures required to make that system work. Yet, part of the indictment against the system of discipline at the penitentiary was the charge that it had not led inmates to abandon their ways of crime.

As the inquiry noted:

None of the witnesses have alleged that any Convicts have been reformed by the discipline of the Prison, and the Warden has not alleged that he knows of any such.

The Auburn system was found wanting by the Commission for its severity and for its failure to further convict reformation.
The Brown Commission recommended a number of disciplinary changes intended to contribute to the "permanent moral reform" of the convict. Specific innovations were urged to give "much greater prominence" to "secular, religious and moral instruction". In this area the commission recommended the establishment of a library of general books, the hiring of a full time teacher, the provision of one hour every second day for schooling, and the expansion of religious devotions. During their travels through the United States Commissioners Brown and Bristow had toured institutions operated on the Philadelphia model and others following the Auburn plan. The report of the Brown Commission suggested a combination of these two modes of discipline, with incoming convicts being consigned to up to six months in solitary confinement. This stage was to be succeeded by congregate labour for most prisoners, although the Commission felt that some could be pardoned after their initiation in solitary imprisonment. The commission favoured the separation of juvenile and adult offenders in distinct institutions. It was also felt that the classification of convicts within the penitentiary would be beneficial, though the Commission was uncertain how this should be effected. The reformatory role of prison industry was promoted by the report of the inquiry. Moreover, attention was paid to the prisoner's difficulties after release with the suggestion that discharge payments ranging from one to five pounds be provided and that prisoners' aid societies be established.
The recommendations of the Brown Commission were a manifestation of pre-Confederation penal thought in a mid-stage of transition. Some changes and suggestions of change had come before, in the years that followed the opening of the penitentiary. An early school at the prison was quashed for interfering with Auburn discipline. Nevertheless, the Rev. R.V. Rogers, in his first report as Protestant chaplain in 1843, advocated the re-establishment of a daily prison school. One year later, Governor Sir Charles Metcalfe's donation of approximately one hundred and seventy volumes laid the basis of a prison library. In 1845, visitors were excluded from the female department in response to complaints that had been expressed by the chaplain one year before. These were the sort of "ameliorations and improvements" which the Brown Commission felt should be strengthened at the penitentiary.

In 1849, instruction and humane treatment were stressed as important to the reformative process. At the same time, however, the report of the 1849 commission specifically rejected any gradation of the severity of prison discipline through a convict's term as an incentive to good behaviour. The "purchase of privileges" through "exemplary obedience" was repugnant to the commission as a practice that "would open a wide door to favoritism". The progressive easing of punishment and the employment of privileges as incentives were to be championed by Canadian penal authorities in the 1860s, but such measures were not deemed suitable in 1849.
The recommendations of the Brown Commission inspired changes at the Provincial Penitentiary in the decade that followed 1849. Penitentiary legislation in 1851 made the chaplain a full time officer with enlarged duties including the management of a Sabbath school and the superintendence of the prison library. Overseers were appointed to teach the convicts various trades and to act as foremen, and the position of schoolmaster was created to ensure the instruction of inmates in "reading, writing and other branches of secular knowledge". While these alterations reflected the faith of the Brown Commission in the power of education to reshape the inhabitants of the prison house, certain other provisions in the 1851 Penitentiary Act aimed at reducing and regulating the severity of punishment in the penitentiary. Corporal punishment was restricted by statute to "extreme cases", and a maximum of seventy-five lashes was permitted for any one offence. Only the warden or an officer temporarily taking his place was empowered to award punishments to the convicts. In addition, in a new departure, the 1851 legislation authorized the construction of up to fifty solitary cells, each with its own workshop. This was tangible recognition of the Brown Commission's recommendation that up to six months' solitary confinement be imposed upon each incoming prisoner.

The 1850s saw other important penal developments as well. In an expansion of the institutional approach, special provisions were made for certain categories of prisoners. The
1851 Penitentiary Act authorized the removal of insane penitentiary prisoners to the Lunatic Asylum of Upper Canada.

Five years later initiatives were taken to purchase property west of the penitentiary as the location of a separate asylum for the criminally insane. In 1858 a juvenile reformatory was established in Canada East, and one year later a similar institution was founded at Penetanguishene in Canada West. These reformatory prisons were intended to segregate corrigible prisoners under twenty-one years of age from the hardened offenders with whom they would otherwise be housed. Taking the home as the model, reformatories united educational and penal approaches to the control of juvenile crime in a single institution.

Steps were also taken in the 1850s to separate certain classes of convicts within the penitentiary. Military prisoners were placed under the orders and discipline of their own officers in 1851 and half of the south wing was walled off to serve as a prison for that class of inmate. Early in the 1850s work was begun on the conversion of the former north wing dining hall into a prison for women. In addition, lunatic convicts were confined apart from the others under the penitentiary dining hall pending completion of the nearby Rockwood Asylum. As it turned out, this temporary expedient was employed for a number of years to the detriment of the health of those involved.

The 1848-49 Commission asserted the importance of prison industry as a vehicle of reform and as a source of prison
revenue. Contract labour had long been planned for the Provincial Penitentiary; in the post-1849 decade, however, that system was entrenched as it had not been previously, as a number of contracts were let in that later period.

Through the decade of the 1850s, the contract labour system was increasingly condemned by workers protesting unfair competition and by those who felt that contract labour undermined the reformative role of the prison. Nevertheless, the contract system was not to be easily eliminated. Its end ultimately came in the post-Confederation period.

The findings of the Brown Commission had an impact upon penitentiary administration. Yet, the recommendations of the inquiry in this area were part of a continuing development that is best viewed in its entirety. In the pre-Confederation period "special boards and commissions" were commonly employed in social welfare administration. This pattern of administration prevailed in the penitentiary sphere. In 1832 the Upper Canadian Assembly utilized a two-man commission to look into methods of penitentiary management. In 1833 the membership of that commission was enlarged by one and its role was altered to encompass "superintending and managing the erection and completion of the said Penitentiary". Legislation one year later established an unpaid five-man Board of Inspectors instructed to frame rules and regulations for the discipline of the penitentiary and to "examine and inquire into all matters connected with the Government Discipline and Police" of that institution. Despite changes of personnel,
this Board of Inspectors continued to operate until the end of 1848 when it was succeeded by the Royal Commissioners. The Brown Commission recommended the appointment of paid inspectors with expanded powers, and in 1851, in conformity with that proposal, two salaried Inspectors were named to succeed the Commissioners in superintending affairs at the penitentiary. The two Inspectors were replaced in turn in 1859 by a salaried five-member board with broad jurisdiction over the province's public asylums, hospitals, prisons, gaols, and penitentiary.

From their first appointment in the 1830s, the penitentiary inspectors and the warden shared power with respect to the penitentiary. By the terms of legislation passed in 1834, the Board of Inspectors were assigned duties of administration and inspection. The warden, on the other hand, performed an executive function. As described in 1834 legislation, the warden's role was to:

exercise a general supervision over the Government, Discipline and Police of the said Penitentiary; to give the necessary directions to the Keepers, and to examine daily into the state of the Penitentiary, and the health, conduct and safe keeping of the Prisoners; to use every proper means to furnish such prisoners with employment...to superintend all the manufacturing and mechanical business that may be carried on within the Penitentiary; to receive the articles so manufactured, and to see and dispose of the same...

The inspectors and the warden appointed different members of the penitentiary staff, but they shared responsibility for the "Government, Discipline and Police" of the prison. Here the
jurisdiction of the inspectors and the warden overlapped, and greater power for one reduced the power of the other. Through three decades following the founding of the prison, the authority of the Board of Inspectors varied with that of the warden.

In 1846 the Provincial Penitentiary warden, Henry Smith, gained in power and income with the passage of penitentiary legislation drafted without reference to the inspectors. The existing Board members resigned in protest, to be replaced by inspectors who proved more compliant to Warden Smith's wishes. Penitentiary legislation in 1851 dramatically altered the dominant position that the warden had occupied through the late 1840s. Under the terms of that statute, the two salaried Inspectors who were appointed in 1851 enjoyed greater administrative power than their predecessors had in the previous decade. Importantly, these two new officials were empowered to "consider and determine" many matters which earlier inspectors could only investigate. In keeping with the 1851 precedent, the creation of the Board of Inspectors of Prisons, Asylums, and Public Charities in 1859 expanded the authority and the responsibility of the inspectors further.

Nevertheless, while the reduction of the warden's power through the 1850s was significant, it should not be exaggerated. The 1851 Act did not reduce the warden to the status of "an extremely active messenger boy for the Inspectors," as one twentieth century commentator has claimed. The same 1851 Act that enhanced the inspectors' jurisdiction, explicitly confirmed the warden's position as the "Chief Executive Officer"
of the prison with "the entire executive control and management of all its concerns, subject to the rules, regulations and written instruction...made by the Board of Inspectors". Moreover, in their "consideration and determination" of many prison matters, the Inspectors continued to depend upon the advice and first hand experience of the warden. For years to come the warden would retain major executive functions while broad administrative and inspectorial tasks would be performed at a higher level.

Within the Provincial Penitentiary the expansion and specialization of prison staff was a feature of early development. Under the 1834 Penitentiary Act the personnel of the new prison was comprised of a Warden, Clerk, Chaplain, Physician, Deputy Warden, up to twenty Keepers and one Guard. The growth of convict population and innovations in penal practice combined in the years that followed to force an increase in the numbers of staff and the creation of new positions. By the end of 1851 provisions had been made for a Roman Catholic Chaplain, Schoolmaster, Storekeeper, Clerk of the Kitchen, Matron, Assistant Matron and a number of Overseers. The number of guards employed at the penitentiary was augmented considerably through the same period.

Each position on the penitentiary staff involved particular duties that were outlined in detail in certain of the Penitentiary Acts and in the prison regulations. In fact, the functioning of the prison rested on the allocation of specific responsibilities to staff members and on the assessment of
penalties for any failure to meet those responsibilities. In addition, the prison staff operated within an authoritarian, hierarchical framework that was instituted with the founding of the penitentiary. Each officer occupied a level of status and authority defined by salaries, perquisites and the Acts officially prescribing degrees of subordination. This paramilitary form of staff organization has proved to have been one of the most persistent parts of the pre-Confederation heritage.

IV

Between 1859 and 1868 the five-man Board of Inspectors of Asylums, Prisons and Public Charities also added significantly to the Pre-Confederation legacy to the later federal penitentiary system. The Board's mandate charged it with "the direction and control of everything relating to the administration of public charity, and with the punishments inflicted by justice". Moreover, the Inspectors were also expected to "consider all the questions, whether of principle or detail, connected with the Asylums, Hospitals and Prisons". In performing this latter duty the members of the Board explored different penal theories and championed the Crofton system of penitentiary discipline developed in Ireland. This Irish plan in turn was part of a broader reformatory discipline approach to convict management embracing punishment and incentives in the service of reformation. After Confederation, the specific Crofton system, and reformatory
prison discipline in general, were to inspire considerable
innovation in the federal penitentiary system.

The Crofton system was developed under the administration
of Walter Crofton, Chairman of the Directors of Irish convict
prisons from 1854. In Ireland, it was an all-encompassing
method uniting a number of convict prisons within a single
arrangement aimed at inflicting just punishment, deterring
others from crime and reforming the convict. The different
prisons of the system comprised stages of a disciplinary
stream through which all Irish convicts passed at a speed
partly determined by their conduct and labour. Prisoners were
encouraged to cooperate through incentives which included
money gratuities, a progressive easing of punitive conditions,
and the hope of conditional liberation before the full term of
a sentence expired. Religious and secular education was
employed as a key reformatory tool, but that education gained
greater force in combination with the disciplinary reinforce-
ment of approved behaviour. The coordination of all penal
elements and the use of marks to measure convict progress,
while not unique to the Crofton plan, were further notable
features of it. Acting in concert, the different devices
of the Irish system presented the exciting prospect of winning
the convict's will to his reform.

There were three major phases of discipline under the
Irish plan. The first consisted of separate cellular confine-
ment at Mountjoy Prison under an intensely penal regime. The
newly-received prisoner served the first eight or nine months
of his sentence at Mountjoy on reduced diet, labouring at work intentionally made hard and monotonous. Here he was subject to religious and secular instruction and learned of the mark system that would govern his progress in future. Mountjoy aimed at the infliction of just punishment and the subjection of spirits at war with society.

After his initiation at Mountjoy, the Irish convict was transferred to either Spike Island or Philipstown Prison. Here the prisoner was required to earn his way through four classification levels. The rate of advancement was determined by marks awarded in the categories of discipline, school and industry. In each stage of progress the convict was paid a small gratuity, the amount increasing with the conduct level attained. Those prisoners promoted to the highest, or "advanced", class were segregated from the others and put on special employment. In this second stage of classification levels, discipline was used to enforce, as well as to encourage, convict cooperation. Idlers or violent prisoners were isolated from their fellows under strict treatment and a reduced diet. The convict was given ample reason in this phase of the system to work to improve his position.

Those felons who successfully completed the steps of the second phase were taken to one of a number of Irish "Intermediate Prisons". Here the convict's condition was considerably bettered and minimal restraint was applied. As a result, the regimen of the Intermediate Prison was mild indeed, in comparison with what had gone before. One
contemporary prison reform enthusiast noted that,

the prisoner begins to improve in health from
the moment he passes the threshold of the
Intermediate Prison, even though he be weakly
and shattered by previous confinement...

Another observer remarked on the high state of sanitation of
these institutions and found them to bear little resemblance
to prisons at all. Such improved conditions of confinement
were designed to further the threefold purpose of the
Intermediate Prison: to demonstrate trust in the convict,
to give him credit for marks earned, and to convince the public
that the convict who had passed through the system could be
safely employed.

After passing a specified period of time in the Interme-
diate Prison, the Irish convict became eligible for liberation
on a ticket-of-leave. These tickets-of-leave were licenses
introduced in the early nineteenth century in British penal
colonies to allow the conditional release of convicts who had
been transported. When transportation was later abolished,
the ticket-of-leave was more widely applied in the British
and Irish penal systems. Under the Crofton administration
in Ireland the majority of prisoners who reached the Inter-
mediate Prison level were released conditionally. Ticket-
of-leave regulations were detailed, and prisoners freed
under these licenses were extensively supervised. In addi-
tion to these components of penitentiary discipline, Walter
Crofton also urged other measures to deal with lawlessness,
including proposals for the more efficient detection of law-
lessness and for free, compulsory education to dry up the
source of crime's practitioners. Yet, in its prison aspect alone the Irish system displayed an impressive unity and scope.

The Crofton system was the product of ongoing development in penal theory and practice. Walter Crofton declared himself a disciple of Alexander Maconochie, a British naval captain and one-time penal administrator. As commandant of the Norfolk Island penal colony between 1840 and 1844, Maconochie had experimented with a series of disciplinary measures, including task sentences and a mark system, all designed to actively reclaim those under his charge. Mary Carpenter, a knowledgeable penal reformer of the day, credited Walter Crofton with being the first to combine the ideas of Maconochie and like-minded authorities elsewhere into a unified, practical system. Mary Carpenter viewed the Crofton plan and the developments that preceded it as parts of a single penological approach which she termed "reformatory prison discipline". Blake Mckelvey, a twentieth century student of American penal history, has advanced a similar "reformatory penology" concept to explain late nineteenth century prison development in the United States. Both terms refer generally to a unified approach to prison discipline aiming at convict reformation through progressive classification, punishments, and incentives to cooperation. While the specific Crofton plan inspired change in Canada's federal prison system in the first years after Confederation, federal penal development in Canada through the entire late nineteenth century period fell within the broader reformatory
prison discipline approach, as did the Irish system itself.

The central Canadian Board of Inspectors of Asylums, Prisons and Public Charities learned of the Crofton system through their exploration of penal theory. As the Board's annual reports indicate, the great majority of the works consulted were of British Isles origin. Walter Crofton, the main force behind the method that bore his name, had close ties with a number of English prison reformers active at mid-century. Mary Carpenter, a prominent member of this group, outlined the Crofton system in detail in her 1864 book, Our Convicts. However, Edmund A. Meredith, the vigorous exponent of that system on the Canadian Board of Inspectors, became familiar with the features of the plan through writings that appeared earlier than Our Convicts. The 1861 meeting of the National Association for the Advancement of Social Science in Dublin was also instrumental in establishing the reputation of Walter Crofton's methods among the Canadian Inspectors. At the 1862 meeting of the Association, Lord Brougham referred to the previous year's gathering in his opening address and, in a well-publicized pronouncement, declared the Crofton system to be a success proven by experience.

Undoubtedly the origin of the Crofton system in British penal history was one of its attractive features for the Inspectors. The middle decades of the nineteenth century have been painted as a time when the ideas of liberal Victorian England held firm sway in British North America.
J.M.S. Careless, the historian who first introduced this theme, has contended that "Canada, perhaps, never before or since has been so British". While the extent of general British influence is open to argument, the impact of the British Isles' example upon Canadian penal development in the 1860s cannot be questioned. The factors advanced by Careless to explain the general British liberal Victorian influence upon Canada at mid-century, help to account for Britain's penal leadership as well. Terence J. O'Neill and Edmund A. Meredith were two of the Inspectors who came to British North America as part of the tide of British immigration in the 1830s and 1840s which set the tone of Canadian life for decades to come. Like many other British immigrants, both attained positions of authority and influence in the mid-century period. The impact of the immigration from Britain generally, the rise to prominence of many of the newcomers, and the force of the colonial tie freed of earlier irritants, made British influence upon Canadian penal development a natural occurrence.

However, the Imperial government also made direct efforts to ensure that the colonies were acting on sound penal principles, and these efforts contributed to the force of the British example in Canada. Two Circular Despatches were sent by the Home government to the colonies in 1863, enclosing the findings of an 1863 House of Lords' inquiry into gaol discipline and the report of a contemporary British Royal Commission on Penal Servitude. Two further Circular
Despatches were transmitted to Britain's dependencies in 1865 under the auspices of Edward Cardwell, Secretary of State for the Colonies. The first of these contained a number of pronouncements upon the form which a proper penal system ought to take. The second despatch posed a list of questions for colonial authorities as to the nature of the prison systems within their jurisdictions. The British aim was to ascertain if colonial penal practice was in accord with that in the mother country.

In Britain during the 1860s several distinct strands of penal thought coexisted. Although an 1856 Select committee of the British House of Commons accepted some of the recommendations of Captain MacKintosh stemming from his Norfolk Island experience, a later 1863 Committee of the House of Lords stressed instead the separate system as the basis of prison discipline. This system had been inaugurated in England in the 1840s. It called for the separate confinement of each prisoner throughout his sentence, accompanied by penal unproductive labour, to break his will or soften his heart. Advocates of the separate system distinguished it from Philadelphia's solitary plan by emphasizing that under the former plan the felon was isolated from his fellows but not from beneficial influences. In fact, visits by the Chaplain were lauded as a central reformatory influence under the separate plan. Although the separate system was a serious technique of convict reformation when it was first introduced in England, it has been argued that its proponents
in the 1860s viewed separate confinement as little more than a means of inflicting deterrent or retributive punishment.

The Canadian Board of Inspectors was receptive to the 1863 House of Lords' recommendations on the punitive use of solitary confinement through the separate system in conjunction with penal unproductive labour. The Board also endorsed the trend in Imperial legislation in the mid-1860s towards the provision of whipping as part of the sentence levied for many offences against the person and property. At the same time, however, the Inspectors enthused on the merits of the Crofton system, a plan advocated by British prison reformers but not adopted directly by the British government. Irish prison administration did have much in common with the English penitentiary system. Penal unproductive labour, stages of confinement, an intensely penal initiation to prison, the classification and promotion of prisoners and the ticket-of-leave device were among the measures applied in both jurisdictions. Yet Crofton theory had a greater reformative thrust than its English counterpart. In accepting aspects of both these approaches the Canadian Inspectors drew heavily, if somewhat indiscriminately, on the penal experience of the mother country.

From the mid-1860s a group of American penal reformers also displayed enthusiasm for the Irish convict plan. Enoch Cobb Wines, corresponding secretary of the New York Prison Association, and Franklin B. Sanborn, secretary of the Massachusetts' Board of Charities, stood out for their support
of the scheme. Both men corresponded with key Canadian officials in the late 1860s and during the decade that followed, reinforcing the Canadian decision to adopt much of the Crofton system. However, these Americans were slower than the Canadian Inspectors to seize upon the merits of the Crofton plan and had no influence on the first Canadian steps in its direction.

In 1859 the Canadian Board of Inspectors was composed of five members: Wolfred Nelson, J.C. Taché, E.A. Meredith, John Langton and D.A.E. Macdonell. Although its membership was altered in the years that followed, the Board proved itself consistently ready to recommend improvement or change in the prison system. After a first full year in office, the Inspectors noted that they had been considering "a system of Rewards, Remission of Punishments and Probationary experiments...having in view the reformation of the prisoners and the maintenance of order in the [penitentiary]."

Inspector Edmund A. Meredith unveiled the new scheme in the 1861 annual report of the Board; it was to be a variant of the Crofton system of penitentiary discipline elaborated in Irish convict prisons during the preceding eight years.

Inspector Meredith was particularly critical of the existing Provincial Penitentiary disciplinary regimen because he felt that it aimed mainly at deterrence and punishment and largely ignored convict reformation. That old system, Meredith complained:
may be described as one of rigid repression, of uncompromising coercion, one which admits no change or improvement in the condition of the convict in consequence of good conduct. Nothing that the unhappy man can do can secure for him the slightest mitigation of his punishment....

The Crofton plan, in contrast, enlisted a number of rewards as well as punishments to move the convict toward approved values and behaviour. Previously the penitentiary had relied upon religion and education within a static punitive situation to bring about reformation. The Board of Inspectors now proposed to enable each felon to improve his prison condition through good conduct and diligent labour. The Irish plan was expected to harness the convict's own motivation to the difficult task of his reformation:

from the outset every convict would have something to hope for. He would have the strongest possible incentive to good conduct set before him. He would be taught to feel that upon himself depends in a very great degree, his condition in the institution....Finding that by his own efforts he can raise himself among his fellow convicts, he learns the lesson of self reliance.

In encouraging convicts to cooperate with prison authorities the Crofton system promised to contribute materially to the "maintenance of order in the Institution". For the Board members this was an important anticipated advantage of the scheme.

The Canadian Inspectors recommended the introduction of a number of new penal practices into the Provincial Penitentiary to implement the Crofton system. Positive incentives to convict cooperation and some gauge of convict progress were
both essential to the new system. Along these lines, the Board in 1861 advocated the establishment of

A scheme of conduct classification of the convicts accompanied by distinctive badges and money gratuities. 134

The "money gratuities" were expected to encourage good conduct and industry as they did in Ireland. The Inspectors favoured another incentive, too, to work in harmony with gratuities in stimulating convict improvement. This was an opportunity to be given to the prisoner to shorten his sentence through approved behaviour and diligent application to labour. 135

The possibility of the remission of a portion of a sentence was expected to be a powerful inducement to convict cooperation and when instituted later it proved to be just that. 136 However, the Board's early hope that remission and gratuity rewards would foster habits of industry and love of labour was more illusory. The incentive and classification device could promote and measure outward conformity but it was an unreliable instrument with which to mould or gauge inner purpose.

The classification levels were limited to the second phase of Crofton prison discipline. In 1862, however, the Canadian Inspectors also discussed the first and third stages of the system which they hoped to introduce. An undefined initial portion of the convict's term was to be spent in solitary confinement. Once solitary cells were erected, Inspector Meredith explained,

every convict who enters the Penitentiary may learn those salutary lessons which this portion of prison discipline is so well calculated to teach. 138
In Canada, as in Ireland, introductory solitary confinement was intended to repress violent and rebellious convict spirits. It was to be a low point in the felon's prison existence.

Under the Crofton plan an industrious and well-conducted prisoner was to enjoy a progressive improvement of his conditions of life in confinement. In harmony with this general aim, the third disciplinary stage recommended by the Board offered many advantages to advanced prisoners. Confinement at this level was to approximate life outside the prison walls. Additional privileges, earnings for work, employment on public works, and increased freedom were deemed appropriate for convicts who had proceeded this far. The mild discipline of the third stage was designed to prepare prisoners "for their return to social life". It was also expected:

to give society some real guarantee that the convict is a reformed and tried man, and may be safely welcomed back into its ranks.

The felon who remained cooperative under conditions of minimal restraint demonstrated that his reformation was genuine.

The Board of Inspectors did not advocate the implementation of the entire Crofton system in the Province of Canada. Moreover, they did not wish to apply each feature of that plan in its original form. Rather, as Inspector E.A. Meredith noted in 1861, the lessons taken from the Crofton system had to be "modified somewhat to suit the circumstances of the country". As a result, there were several major departures from the Irish system in the Inspectors' recommendations. In Ireland the three major disciplinary phases were centred in
separate institutions. In Canada, in contrast, all stages were to be operated within the confines of the Provincial Penitentiary. In addition, the Board of Inspectors did not recommend the ticket-of-leave or the post-release supervisory features of the Crofton scheme for adoption in Canada.

Several factors militated against the establishment of the complete, unaltered Crofton system in Canada. Inspector Meredith, for one, felt that there were clear limits to what the Canadian populace would accept in the penal sphere. He later defended the 1868 Penitentiary Act, which he helped to frame, as "'the best attainable' in the present state of Public opinion in Canada". Meredith argued that, "on these matters it is, you know, useless to attempt to go much in advance of Public opinion". In the late 1850s and in the 1860s considerable criticism was voiced in England about abuses of the ticket-of-leave system. Some penal reformers contended that strict supervision of ticket-of-leave men was the answer. The Canadian Inspectors apparently felt that the appropriate course in Canada was to omit the ticket-of-leave device entirely. Cost was a further obstacle to a fuller implementation of the Crofton system. Canadian financial resources were limited; the operation of all three stages of the Irish model in one penitentiary would be far less expensive than the construction of additional penal institutions to accommodate the plan in its original form.

Public pressure for economy in prison matters also militated in favour of the less-costly course the Inspectors
favoured. This public pressure may have been as much the product of social attitudes and values as it was a consequence of Canada's economic circumstances. Penitentiary inmates were drawn in great proportion from the labouring class. By definition, too, the prisoner was a member of the "criminal class", a pariah group in society. The low social status of the convict made it unlikely at best that any large financial investment would be made in the prison system to further the implementation of a system of reformatory convict discipline untried in the Canadian context. By rejecting the costly provision of separate institutions for each of the three disciplinary stages, the Canadian Inspectors undoubtedly made the Crofton scheme more acceptable to central Canadian political authorities. General nineteenth century social policy in Canada was characterized by a "delicate weave of moralism and economy" that was fully operative with respect to prisons.

While the modifications which the Inspectors made in the Crofton plan furthered its appeal in Canada, other factors also contributed to the same result. A number of practices and concerns encompassed by the Crofton plan were present in the broader Canadian penal sphere. For example, the solitary confinement of newly-received prisoners had been recommended by the Brown Commission in 1849 and Dr. Charles Duncombe urged a form of classification as early as 1835. In 1860, one year before Inspector Meredith detailed the working of the Irish plan, the Lower Canadian Reformatory Prison was operating a scheme of classification with badges. That same year the
Inspectors also considered the inauguration of a gratuity system at the Penetanguishene Reformatory to encourage good conduct. These precedents were not limited to Canada by any means. Yet their presence in the province did facilitate the adoption of the Crofton system uniting these practices with other techniques in a systematically arranged whole.

In addition, the general institutional approach to the problem of criminality in Canada was informed by the same punishment, deterrence and reformation ends that gave direction to Crofton penitentiary discipline. During their tenures, the Inspectors were concerned about inadequate discipline in the Province's local gaols. Consequently, part of the effort of the Board was directed towards making those gaols sufficiently punitive to be real deterrents to crime. Moreover, it would appear that the Board members generally considered punishment and deterrence to be fundamentals whose effectiveness had to be assured before attention could be turned to any other object. Reformative measures could be emphasized at the penitentiary because that institution was perceived to provide a full measure of punishment.

Yet, though the reformative thrust of the Crofton plan was emphasized, punishment occupied a prominent place within its theory as well. The Irish plan united reform and punishment through its employment of punitive techniques in the effort to reclaim the prisoners. Not only were the disciplinary practices developed in the Provincial Penitentiary's first decades continued when the Crofton system was inaugurated, but
also the harsh requirement of solitary confinement to reduce each convict "to a state of contrition or obedience" was given a new importance. Crofton discipline did not imply an absence of punishment or a lack of severity, but it did promise the convict a chance to improve his position with respect to those punitive conditions.

Most penal thought in the period was coloured by a firm conviction that the convicted criminal should labour during confinement. In large measure, this labour was valued as a punitive measure that would discourage those who might otherwise enter a life of crime. The Board cited the aversion to work of the "criminal class" as a factor that made mandatory labour for convicts doubly effective as a deterrent. Lack of work in the gaols was held to have reduced those repositories to a "pleasant residence, if not absolutely a home" for many a felon. Yet, the transformation of the idle criminal into an honest worker was a positive ideal for those shaping the penal system. The inculcation of work habits was a major ingredient in the behaviour and value change at the heart of reformation.

In addition to this, the Inspectors hoped that convicts would defray part of the cost of their maintenance through penitentiary work. Inspector O'Neill suggested that the public would benefit more directly through convict labour on public works. Another Board member, J.M. Ferris, urged that youths in reformatories be taught farming, an occupation of value "in a country like Canada, containing vast tracts of
unoccupied soil". Many felt that honest toil would benefit 154
convicts "morally and physically". Linked with this was
a pervasive feeling that convicts should have to labour as
the Province of Canada's honest citizens did. Inspector
Ferres was one authority who expressed the widely felt affront
that slothful convicts presented to the work ethic:

I cannot bring myself to think that it is right
that the criminal portion of the population should
be the only one not only exempted from exertion,
but supported in plenty, at the public expense,
when the country requires the labor of every
available man for opening up and improving its 156
communications.

There were punitive, reformative and economic aspects to the
stress upon convict industry in the central Canadian prison
system. The Crofton system participated in them all and, as
a result, was in harmony with the general thrust of the pre-
Confederation penal system.

An additional pressing concern shared by British and
Canadian advocates of the Crofton system was the thorny re-
cidivist problem. The habitual criminal was the test of any
discipline system that had pretensions of minimizing crime.
He was the prisoner least susceptible to reformative influences.
As one British prison reformer described recidivists, they
were "in a state of absolute antagonism to society", "self-
indulgent and low in their desires, ignorant of all knowledge
that would profit them, skilful only in accomplishing their
own wicked purposes". The Crofton system was lauded as a
new approach to the recidivist question that promised to se-
cure the convict's will and cooperation to his own redemption.
On this ground, too, the Irish plan had appeal.
It has been contended that during the 1860s the punishment, reformation and economy aims of the prison system as a whole were recognized as conflicting and incapable of resolution. The Board's enthusiasm for the Crofton system suggests, however, that this conclusion does not apply to the penitentiary sphere in the pre-Confederation decade. However illusory in practice, the Crofton plan did promise to further both punishment and reformation through the employment of punitive measures in the service of convict rehabilitation. Consequently, there was no contradiction in the theory of the Crofton system between the punitive and reformative purposes of prison confinement. Moreover, while the Board of Inspectors did recognize that revenue-producing contract labour conflicted in some ways with the goal of rehabilitation, that recognition did not undermine the zeal with which the Board embraced the Irish plan as a convict reformation strategy.

One commentator on the mid-century period has suggested the existence of a continuing belief in progress--social, economic, and moral--in central Canada between 1840 and 1870. It can be argued that the Crofton system was in many ways an embodiment of optimism in the penal field. The Board of Inspectors had confidence that the Irish system would deal effectively with the convicted criminal in the penitentiary setting. For the Inspectors the decade of the 1860s was a time for hope rather than despondency, at least as far as the penitentiary was concerned.
The Irish convict plan aimed at a complete reformation of the felon. A single disciplinary stream was to apply to all penitentiary inmates. This refusal to acknowledge the importance of individual prisoner differences says much about the confidence of the plan's advocates in its effectiveness. Inspector Meredith revealed his hopes for the new system when he described it in 1861 as:

the admirable system which has for the last 8 years been enforced with such signal success in the Irish convict prison. As an Irishman I feel proud to think that Ireland should have given birth to a system of discipline which has already done so much towards reforming her criminal population, and which seems likely...to do so much for the criminals of other countries.

As a decade that in many ways constituted "a high water mark of the doctrine of progress in the Province of Canada", the 1860s were eminently hospitable to the Crofton system, itself hailed as an important advance in the treatment of convicts.

Only one major step was taken in the pre-Confederation years towards the implementation of the Crofton system at the Provincial Penitentiary. In 1861 "a series of regulations for establishing a classification of the convicts, not unlike those in force in Ireland", were instituted at the prison. Despite the Board's hopes of legislative sanction for further implementation, such sanction was not forthcoming. The vigorous opposition of the Provincial Penitentiary warden during this period, Aeneas Macdonell, to any "relaxation of discipline" may have been a factor in this. Warden Macdonell's comments in several annual reports clearly represented a veiled attack on the Crofton proposals. In
addition, as the Inspectors themselves noted, constitutional questions preoccupied government attention in these years, making action on the penal question unlikely. Political deadlock in the early 1860s contributed to a general central Canadian legislative barrenness that had its ramifications for the prison field.

The new constitutional beginning of Confederation provided an opportunity for the fuller introduction of the Crofton system into the penitentiary. Through the 1867 constitutional arrangement, the federal government gained jurisdiction over the three existing penitentiaries in British North America and the Rockwood Criminal Lunatic Asylum. Federal penitentiary legislation had to be drawn up to deal with those institutions, and E.A. Meredith, as chairman of the still-functioning Board of Inspectors in 1868, was charged with the preparation of a rough draft of the new law. As Meredith informed P.J. Murray, then Director of Irish Convict Prisons, he was determined to exploit the scope he was given in 1868, to further the scheme he had long advocated,

In my capacity as Chairman of the Board of Inspectors of Asylums and Prisons of Canada, I have been requested to prepare a rough draft of the proposed measure, and in doing so I am anxious to introduce into the Dominion the principles found to work so well in the Irish Convict Prisons, so far as they may be thought applicable to the circumstances of this country.

The 1868 Penitentiary Act was the fruit of Meredith's labour. It enacted several key features of the Crofton plan. The
penitentiary warden was authorized to permit good conduct prisoners to work overtime for money that would be paid to the convict's family or to the convict on his release.

Provision was made for the construction of penal cells and for the "strict separate confinement" of each convict within those cells for a portion of his sentence. The statute also authorized the keeping of a record,

of the daily conduct of every convict in any Penitentiary, noting his industry, diligence and faithfulness in the performance of his work, and the strictness with which he observes the prison rules; with a view to permit such convict under the prison rules to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding five days for every month.

These provisions of the 1868 Penitentiary Act, fleshed out later in the 1870 Rules and Regulations, went far toward the implementation of the Crofton system in Canada. Though denying the Act was "'the best possible'", E.A. Meredith did feel that it was "'the best attainable'". In 1868 he commented to the Governor's Secretary on the importance of the Act:

'This Act will be found to contain many marked improvements in the discipline and management of the Penitentiaries of Canada, and will be the means it is hoped, of placing them more nearly on a footing with the more advanced institutions of the same class in Great Britain. Meredith had reason for some pride in his accomplishment.

Although Confederation provided the occasion for the establishment of key features of the Irish convict plan in Canada, Confederation clearly caused little disruption in ongoing central Canadian penal development. The continuation of the old Board of Inspectors through to the three-man Board
of Directors of 1868 was just one visible indication of a larger continuity of penal theory and practice. Confederation influenced only the timing of a larger acceptance of the Crofton system in British North America. As modified by the pre-Confederation Board of Inspectors, that Crofton plan was very much in harmony with central Canadian penal practices and evolution. Thus, the new theory could be integrated within the Canadian penitentiary sphere with relative ease. The acceptance of the Crofton system meant the predominance of the reformatory prison discipline approach in the late nineteenth century penitentiary system. Consequently, the basic course of the federal penitentiary system was largely determined in the pre-Confederation period.
Chapter One Footnotes

1 The institutional character of the penitentiary and its impact on penitentiary life are explored in depth in Chapter Seven.

2 P.A.C., Solicitor General's Department, Vol. 40, File 2-6-104, _____ to T.J. O'Neill, 30 August, 1871.

3 Canada, Sessional Papers 1868, Vol. 8, S.P. no. 40, p. 11.

4 P.A.C., Solicitor-General's Department, Vol. 40, File 2-6-104, ____ to T.J. O'Neill, 30 August, 1871.


6 Ibid.


10 Henry Pope, Chaplain at the Halifax Penitentiary, claimed that prior to Mr. J.M. Ferres' visit to the prison in October, 1867, "almost everything in it was done at random, it was like old chaos without form and void". Canada, Sessional Papers 1870, Vol. 2, S.P. no. 5, p. 48.


13 Ibid.

14 Ibid., p. 5.


17 E.A. Meredith was appointed Under Secretary of State for the Provinces in 1867.

18 See pp. 50-51 below.
British penal ideas and more specifically, the Crofton plan, can in this context be considered part of the central Canadian prison experience of these officials.

Interestingly, the Department of Public Works in the new dominion was in most respects a continuation of the Department of Public Works in the former Province of Canada. It can be assumed that the central Canadian impact on federal administration from Confederation was broader still than this. See: Douglas Owram, "A History of the Department of Public Works", unpublished ms., Department of Public Works, Ottawa, 1973, pp. 160-1.


Burnet, Ethnic, p. 71.


Burnet, Ethnic, p. 69; See also: Elliott, "Crime", p. 3.


Burnet sees a growing scarcity of cheap land as one factor increasingly denying nineteenth century immigrants the prospect of independent wealth. Burnet, Ethnic, p. 13. Irish Catholic immigrants, in particular, congregated in cities not just because of difficulties entering the agricultural field, but also, and perhaps more importantly, as Kenneth Duncan has argued, because in the cities they were able to establish a familiar form of social organization. Kenneth Duncan, "Irish Famine Immigration and the Social Structure of Canada West", Michael Horn and Ronald Sabourin, eds., Studies in Canadian Social History (Toronto: McClelland and Stewart, 1974), pp. 144-146, 157. See Also: J. Jerald Bellomo, "Upper Canadian Attitudes Towards Crime and Punishment (1832-1851)", Ontario History 65 (March, 1972), pp. 11-14.


One authority, J.M. Beattie, has argued that in terms of serious offences crime was not actually a problem in the 1830s and 1840s. It was perceived as a serious problem, however, J.M. Beattie, Attitudes Towards Crime and Punishment in Upper Canada, 1830-1850: A Documentary Study, Working Paper of the Centre of Criminology (Toronto: University of Toronto Centre of Criminology, 1977), pp. 1-3.


Beattie, Attitudes, p. 10.

Ibid., pp. 8-10; Baehre, "Origins", p. 188.

In 1831 Thompson examined the Glasgow Bridewell prison as well as Auburn penitentiary in fulfilling his duties as chairman of an Upper Canadian Select Committee on the expediency of erecting a penitentiary. From that time, however, the focus of Upper Canadian authorities establishing the penitentiary was upon American penal developments alone. Commissioners inquiring into penitentiary discipline in 1832 felt restricted to North America by the terms of the
Upper Canadian Penitentiary Act. They were also influenced by Britain's interest in the American penal example. Baehre, "Origins", pp. 190 - 191.


38. McKelvey, American Prisons, p. 29; Beattie, Attitudes, p. 17.


40. Upper Canada, Legislative Assembly, Journals 1836 - 1837. Appendix 10, sec. VIII.

41. Ibid., sec. III, ss. 3.

42. The convicts were exempted from labour on Sundays, Christmas Day and Good Friday. Upper Canada, Statutes 1834, Cap. XXXVI, sec. xxvii.

43. Ibid., sec. xxvii.


45. Convict clothing was brown and yellow if woolen and white and 'drab' if made of cotton or linen. All convict clothing was marked with the letters, "P.F." The public was charged admission to tour the prison and view the prisoners. Entrance fees in 1836-7 were 1s., 3d. for male adults and 7½d. for women and children. Upper Canada Legislative Assembly, Journals 1836 - 37, Appendix 10, sec. IX, ss. x, and sec. XVI.

46. Lewis, Newgate, p. 84.

47. P.A.O., Macaulay Papers, Macaulay to Rev. B.C. Smith, Auburn, 22 February, 1834; ibid., Macaulay to R. Wiltse, Sing Sing, 22 February, 1834.

48. It has been argued that from 1835-1850 the Conservative administration of the penitentiary arranged to minimize the competition of convict labour on the labour market, in return
for artisan agreement not to protest against those prison industries that were carried on. Harry Clare Pentland, "Labour and the Development of Industrial Capitalism in Canada", (Ph. D. Dissertation, University of Toronto, 1960), p. 29.

49 Upper Canada, Statutes 1834, Cap. XXXVI, sec. xxviii.
49 Upper Canada, Legislative Assembly, Journals 1836–1837, Appendix 10, sec. LIII, ss. 3.
52 P.A.O., Macaulay Papers, Rev. B.C. Smith to Macaulay, 19 October, 1833.
53 See, for example: Upper Canada, Legislative Assembly, Journals 1836–37, Appendix 10, sec. I, ss. 12.
54 Beattie, Attitudes, pp. 18-23.
56 Ibid., pp. 1-3; J.M. Beattie has claimed that the reformation of the criminal was the "prime objective" of Kingston Penitentiary at its founding. Beattie, Attitudes, p. 17. He has presented considerable evidence that demonstrates, if not that reformation was the dominant aim of the prison, that it was at least a prominent concern of many of those involved with the construction and early operation of that institution. In this context Beattie has taken issue with Bellomo's claim that Duncombe was a penal reformer ahead of his time. Beattie, Attitudes, pp. 20-21. Baehre has argued against Bellomo's view of Duncombe as well, in part on the ground that Duncombe was not as humanitarian in his beliefs as Bellomo has contended. Baehre, "Origins", p. 197. It seems clear that Duncombe was much more a man of his day than Bellomo allowed.
58 Queen's University, A.E. Lavell Papers, Penal, p. 26.
60 This inspiration was derivative, however. The designers of Canada's late nineteenth century penitentiaries did not look directly to the Auburn example but instead imitated earlier Canadian prisons, particularly Kingston Penitentiary, prisons which had themselves been constructed on the Auburn pattern.
Splane, Social Welfare, p. 137. Of course, it can also be questioned whether the Auburn system, given the nature of its goals, could ever have been fully and successfully implemented.

Bellomo, "Upper Canadian Attitudes", p. 22.

This general interpretation of prison reform in New York State in the 1840s is presented in: W. David Lewis, From Newgate to Dannemora: The Rise of the Penitentiary in New York 1796 - 1848 (Ithaca, New York: Cornell University Press, 1965), p. 201; Bahré has correctly noted that concern for the humane treatment of convicts was embodied in the rules and regulations of the Provincial Penitentiary from 1836. The implication is that the dictates of humanity were important in the system from the start. Bahré, "Origins", pp. 198-9. The 1840s were not a time of unprecedented concern for humane treatment, but rather a decade in which the humane treatment of prisoners received greater stress. Despite the injunction to humanity in the prison rules, the Auburn system required considerable severity in practice for its effective enforcement. Greater emphasis on the humane handling of prisoners represented a reaction in the 1840s against the punitive reality of the Provincial Penitentiary regimen.


Canada, (Province of), Journals of the Legislative Assembly 1842, Appendix B.B.B.B.B., p. 65.

Ibid., p. 73.

Ibid., pp. 71-2.

Ibid., pp. 21 - 25, 48 - 50.

Lewis, Newgate, Chapter 4.


Canada, (Province of), Journals of the Legislative Assembly, 1842, Appendix B.B.B.B.B. pp. 72-3.
Ibid., p. 72.
Ibid., p. 74.
Ibid., p. 72; Baehre, "Origins", p. 205.
Ibid., p. 3.
Ibid.

It can be hypothesized that the recent struggle in the political sphere against favouritism, cli-
maxed by responsible government, influenced George Brown and his fellow commissioners in this viewpoint.

Canada, (Province of), Statutes 1851, Cap. II, secs. XVII, XX, XXIII.
Ibid., sec. XI.
Ibid., sec. VIII.
Ibid., sec. XLVI.


Canada, (Province of), Journals of the Legislative Assembly 1842, Appendix B.B.B.B., p. 74.
Ibid., pp. 35-36; Splane, Social Welfare, p. 146.
Splane, Social Welfare, p. 27.
Upper Canada, Statutes 1832, Cap. XXX, sec. II.
Upper Canada, Statutes 1833, Cap. 44, sec. II.
Upper Canada, Statutes 1834, Cap. XXXCII, secs. I, II.
Canada, (Province of), Journals of the Legislative Assembly, 1842, Appendix B.B.B.B., p. 73.

Canada, (Province of), Consolidated Statutes 1859, Cap. 110. This five-man board was first authorized by leg-
islation in 1857, but it was not established until 1859.
96 Upper Canada, Statutes 1834, Cap. XXXVII, sec. X
97 Canada (Province of), Journals of the Legislative Assembly 1849, Appendix B.B.B.B., p. 3.
98 Canada, (Province of), Statutes 1851, Cap. II, sec. X.
99 Queen's University, A.E. Lavell Papers, Penal; p. 39.
100 Canada, (Province of), Statutes 1851, Cap. II, sec. XV.
101 Upper Canada, Statutes 1834, Cap. XXXVII, secs. VII, VIII.
102 Canada, (Province of), Statutes 1851, Cap. II, sec. XXVI.
104 Ibid.
105 Ibid.

106 Ibid., p. 32.
107 Ibid., p. 33.
110 Carpenter, Reformatory, p. vi.
111 Ibid., pp. vii - xv.

Canada, (Province of), Sessional Papers 1863, Vol. 5, S.P. no. 66, p. 121.

Ibid.


S.F. Wise, for one, feels that Careless has overdrawn the influence of British liberalism in the period. S.F. Wise, "Liberal Consensus or Ideological Battleground", Canadian Historical Association, Historical Papers (1974), pp. 12 - 13.

Both Meredith and O'Neill were born in Ireland. The latter came to Canada in 1829, while the former arrived in 1842.

Ibid.

Canada, (Province of), Sessional Papers 1866, Vol. 3, S.P. no. 6, p. 40.


Barry, Maconochie, pp. 218, 227.


Ibid., pp. 88, 93.


Ibid., pp. 46 - 47.

C.S.C., Letterbook for 1867, 1867 - 1873, E.A. Meredith to F.B. Sanborn, 25 April, 1868, pp. 233 - 234;
P.A.C., Department of Justice, A2, E.C. Wines to T.J. O'Neill, 4 April, 1870.

Franklin Benjamin Sanborn, a long-time nineteenth century Secretary of the Massachusetts Board of State Charities, has been described as the "real apostle of the Irish system" in the United States. He learned of Crofton's work only in 1864 or 1865. McKelvey, American Prisons, p. 60.

In 1861 AE. Macdonell and J. Langton were replaced on the Board by J.M. Ferres and T.J. O'Neill. The Board was reduced to four members by the death of Wolfred Nelson in June, 1863. In 1864 J.C. Taché withdrew from the Board to take up another position. He was replaced by F.Z. Tassé.


Ibid., pp. 60 - 61.

Ibid., pp. 61 - 62.


Ibid.


Ibid.

Ibid., p. 121.


C.S.C., Letterbook for 1867, 1867 - 1873, Meredith to F.B. Sanborn, 25 April, 1868, pp. 233 - 234.

See Chapter Three below.


For a full discussion of the aim of economy in post-Confederation penitentiary administration, see Chapter Six below.


Upper Canada, Journals of the Legislative Assembly 1836, Vol. II, Appendix no. 71, p. 3.


See, for example: Canada, (Province of), Sessional Papers 1866, Vol. 3, S.P. no. 6, p. 72.

See, for example: Canada, (Province of), Sessional Papers 1862, Vol. 4, S.P. no. 19, p. 47.


Ibid., p. 106.


Canada (Province of), Sessional Papers 1863, Vol. 5, S.P. no. 66, p. 108.

Ibid., p. 75.

Carpenter, Reformatory, pp. vii, x.

Ibid., p. xi.

Houston, "Impetus", p. 63.


Canada, (Province of), _Sessional Papers 1862_, Vol. 4, S.P. no. 19, p. 69.


Under Section 91, ss. 28, of the British North America Act, 1867, the federal government was charged with, "The establishment, maintenance and management of Penitentiaries". "Asylums" were among the classes of institutions put under provincial jurisdiction by section 92, ss. 7. Rockwood Asylum appears to have been put under federal authority because it dealt with criminal lunatics and because it was considered part of Kingston Penitentiary. This view is bolstered by Sec. 64 of the 1868 Penitentiary Act declaring Rockwood Asylum to be a part of Kingston Penitentiary.


Ibid.

Canada, _Statutes 1868_, Cap. 75, Sec. 31, ss. 6.

Ibid., Sec. 61.

Ibid., Sec. 62.

C.S.C., Letterbook for 1867, 1867 - 1873, Meredith to F.B. Sanborn, 25 April, 1868, pp. 233 - 234.

Ibid., Meredith to Governor's Secretary, 10, June, 1868, pp. 240 - 242.
CHAPTER 2

THE FRAMEWORK:

INSTITUTIONS, STAFF AND ADMINISTRATION, 1867 - 1899

By the terms of Confederation the federal government of Canada gained jurisdiction over three penitentiaries and one lunatic asylum. These institutions, and others that would be constructed in the late nineteenth century, presented a basic administrative challenge to federal authorities. How were these distinct, geographically dispersed units to be welded into a single system with a common penological content? The dominion government inherited one tool for its task in the form of a sophisticated staff organization. It was bequeathed, as well, a body of administrative practices that would help determine the manner of staff operation. Institutions, personnel, and administration were three facets of the federal prison system essential to its practical content and functioning. They set the boundaries of penological change and together dictated the points where new penal theory could enter the system. Institutions, personnel, and administration provided a framework for other developments at penitentiaries in the late nineteenth century.

During the thirty two years between 1867 and 1899, penitentiaries, staff arrangements and administrative practices
were each transformed. A number of additional prisons were erected in the late nineteenth century and several others were closed. The collection of sharply differentiated institutions at Confederation had given way by the end of the century to a system marked by a considerable uniformity and unity. The locus of power within the penitentiary service shifted in the same period. Methods of management were introduced that furthered a centralization of control and a rationalization of procedure. These were mutually reinforcing administrative developments. Changes with respect to staff, administration and penitentiaries were often interrelated.

The examination of this framework of the penitentiary system logically falls into three parts. The prisons of the late nineteenth century federal system are the first focus of attention. The establishment of new institutions, the sources of individual prison expansion, the ramifications of physical plant for penal methods and the relative importance of the different federal prisons in the period are discussed in part one. Part two explores the division of federal ministerial jurisdiction over penitentiaries and the levels of authority within the penitentiary service. The relationship of staff to the penological content of the system is a main concern of this section. The general focus of the third and final portion of this chapter is the evolution of penitentiary administration between 1867 and 1899. Administrative power was increasingly centralized in the federal penal sphere through the late nineteenth
century. This process is examined in conjunction with the complementary phenomenon of administrative rationalization. The rationalization of administration was both a cause and an effect of the growing accretion of authority in Ottawa. Administration in general linked both staff and institutions within an equation that set practical limits to change in the system.

I

The expansion of facilities was a central theme of federal penal development through the late nineteenth century. Yet, this expansion was uneven. In the 1870s four new penitentiaries were opened, two were given up, and one asylum was relinquished to a provincial government. The decade of the 1880s was a time when additions were constructed at many penitentiaries to cope with rising inmate populations. In the following decade a specialized prison of isolation was erected at Kingston Penitentiary. Cells were also enlarged at that institution in the 1890s on humanitarian grounds. Canada's federal penitentiaries increased in number and size through the late nineteenth century in response to differing demands.

St. Vincent de Paul Penitentiary was opened by the federal government in 1873 to serve as a distinct repository for Quebec's convict population. On May 19, 1873, a group of sixty convicts were brought by boat from Kingston Penitentiary shackled with leg irons, to be its first occupants. The buildings at St. Vincent de Paul were those of a former
Juvenile Reformatory purchased from Quebec by Ottawa in 1872 to serve the purposes of a prison. The site of the institution was commendable. It was situated on a plateau overlooking the village of St. Vincent de Paul, about ten miles from Montreal on the Ottawa River. The prison structure, however, was not well suited to the role of a penitentiary because it was not originally constructed to serve that purpose. This shortcoming was to hinder the administration of St. Vincent de Paul for years to come.

The federal government established a penitentiary in Manitoba in response to the geographic enlargement of its penal jurisdiction. Yet, initially, for seven years after the creation of Manitoba in 1870, the federal government relied upon make-shift provisions for the confinement of felons in the province. In 1870 the government of Manitoba set aside Lower Fort Garry to serve as a prison. Although the federal government paid rent to the province for the use of the "penitentiary", the position of the institution remained highly anomalous. The prison did not come under the purview of the Board of Directors of Penitentiaries or its successor, the Inspector of Penitentiaries. As late as 1875, S. Gedson, Acting Warden since 1870, had not yet been formally appointed by Ottawa. Very limited prisoner accommodation at Lower Fort Garry was a further negative aspect of the situation. This defect most probably figured in the federal government's 1873 decision to seek a site for a new penitentiary in Manitoba. On January 31, 1877, "in the depth of
winter", convicts were transferred from Lower Fort Garry to a newly constructed federal penitentiary at Stony Mountain.

The construction of Manitoba Penitentiary was far from complete when that institution was first occupied. It lacked stables, workshops, outhouses and proper dwellings for guards and their families. The foundation was defective to the extent that female quarters in the basement were rendered "uninhabitable through dampness" in a heavy rain. The prison was without an adequate boundary wall for years after its founding. At Manitoba Penitentiary, and at many other contemporary prisons, construction was an ongoing process for years after the receipt of the first prisoners.

In British Columbia, as in Manitoba, a penitentiary was constructed in the 1870s to discharge federal penal responsibilities assumed with expansion in the post-Confederation period. The federal government initially dealt with convicts in British Columbia by paying that province for the maintenance of federal prisoners in the Victoria and New Westminster jails. In the fall of 1878 a more permanent solution was finalized with the opening of the British Columbia Penitentiary, an institution situated about two miles from New Westminster on a hillside overlooking the Fraser River. The chief building of the penitentiary at New Westminster was constructed on the same plan as its counterpart at Manitoba Penitentiary. The Inspector of Penitentiaries at the time, James G. Moylan, contended that the new prison shared Manitoba Penitentiary's original deficiencies as well. The
main weakness of the British Columbia Penitentiary, in the Inspector's opinion, was its hillside location, a site to be productive of water run off problems in rainy seasons in years to come.

The erection of a new penitentiary to serve the Maritime provinces was long planned by Ottawa. Soon after passage of the first Penitentiary Act federal authorities began considering alternatives to the St. John and Halifax Penitentiaries. In 1869, Terence J. O'Neill, a Director of Penitentiaries, suggested construction of a new central prison in the Atlantic region. Two years later the Dominion government appraised the possibility of enlarging the Halifax Penitentiary to accommodate St. John Penitentiary prisoners as well as its own. The government was especially anxious to give up its jurisdiction over the prison at Saint John. That penitentiary suffered consistently from overcrowding and a lax penal regime. Ottawa managed the institution by an agreement with the city of Saint John, original builder and legal owner of the prison. That agreement included the penologically and economically unsatisfactory requirement of confining Saint John's petty criminals along with the federal convicts at no charge to the city. On the other hand, Halifax Penitentiary had serious shortcomings of its own that tended to disqualify it as an alternative. The entry of Prince Edward Island into Confederation further militated toward the construction of a penitentiary centrally located to confine prisoners from all three Maritime provinces.
Dorchester, New Brunswick, near both the Nova Scotia border and the Intercolonial Railway line, was selected as the site for that institution.

Dorchester Penitentiary was opened in 1880. It had been built by convict labour on an "elevated plateau" near the town which gave the institution its name. During its first six months the prison had no surrounding fence at all. For decades after, a wooden stockade was to serve that purpose. Cell accommodation proved inadequate from the start. Overcrowding at the new institution was not alleviated until the completion of a further wing some years later.

The Dominion government built two other penal institutions in the late nineteenth century. The Regina Jail received its first prisoners in 1887. The Prince Albert Jail was in operation by at least 1888. Both were constructed to meet federal obligations to imprison those convicted in the North-West Territories. However, the status of the Prince Albert and Regina Jails within the federal prison system was nebulous. The Regina Jail was inspected by the Inspector of Penitentiaries in 1887 and 1888. By 1900 the Minister of Justice's annual report on penitentiaries included a section on the two jails. Nevertheless, the provisions of the Penitentiary Acts did not apply to the Prince Albert and Regina Jails. Federal convicts in these jails, those inmates with sentences of two years or more, did not qualify for the remission that their counterparts in any of the federal penitentiaries did earn. Although the Prince Albert and Regina
Jails were administered through the federal Penitentiary Service, they were not full and equal parts of the system. The reason for this can only be assumed. Presumably the terms of the federal Penitentiary Acts were not applied to these two institutions because as jails they were considered beyond the purview of that legislation.

Several penal institutions were relinquished by federal authorities after Confederation. The Halifax and Saint John Penitentiaries reverted to provincial use in 1880 when Dorchester Penitentiary was opened. Three years earlier, however, control of the Rockwood Asylum near Kingston had been given over to Ontario. In this case the explanation of the transfer is more involved.

Rockwood Asylum was established in 1855 to house the criminally insane. In fact it soon became a repository for mentally ill persons from the eastern part of Canada West. Rather than sending deranged relations the greater distance to the regular asylum at Toronto, many families committed those unfortunate relatives to local gaols as "dangerous lunatics" to qualify them for admittance to Rockwood. The prevalence of this undesirable practice prompted a redefinition of Rockwood Asylum's status in the 1868 Penitentiary Act to open it to both criminal and non-criminal lunatics. Following this arrangement, however, the close association of convict lunatics with the more respectable insane prompted criticism. The evils of this intermingling were a favourite theme of Rockwood's Medical Superintendent at the time.
Dr. John R. Dickson. This argument, coupled with the small proportion of criminally insane in the institution, was apparently decisive in the federal government's decision to sell Rockwood to the Province of Ontario. On July 1, 1877, after many years of negotiations, Ontario took possession.

The expansion which generally characterized the late nineteenth century penitentiary system occurred unevenly over time. It went beyond the establishment of new institutions. For several reasons each existing penitentiary was almost constantly altered and improved in the period. Penitentiaries built in the late nineteenth century were generally left in a rough, unfinished state because it was felt that their future inmates could and should complete the work. Wardens were often hard pressed to keep all their prisoners occupied, so that the improvement of prison buildings and grounds was undertaken as one useful outlet for convict labour. In addition, the external appearance of a penitentiary was one gauge of the success of a warden's administration. In his 1885 annual report Inspector J.C. Moylan lavished praise on the transformation of the British Columbia Penitentiary grounds during that institution's first seven years. This was typical of the attention paid to this aspect of a warden's work.

Overcrowding afflicted all the federal penitentiaries, except Kingston Penitentiary, in the 1870s and early 1880s. Additions were constructed at many of the prisons involved. From 1875 St. Vincent de Paul Penitentiary was compelled
repeatedly to send prisoners to Kingston because of lack of space. An additional cell wing at St. Vincent de Paul in the 1880s eased the situation. The completion of a new cell block at Dorchester Penitentiary in the spring of 1887 ended similar problems there. At Manitoba Penitentiary the construction of forty-seven new cells in 1885 still left about fifty convicts improperly housed. Inspector Moylan urged that a further cell wing be built at the prison. Thirty-two cells were added to British Columbia Penitentiary in 1885 by raising the prison roof. Even so, some convicts had to sleep in the passages. The Inspector concluded that here, too, another wing was needed.

Insufficient cell capacity restricted the range of penal methods that could be introduced into the Canadian system. At several penitentiaries convicts, of necessity, slept in hallways or doubled up in cells. This contravened the basic statutory requirement of single cell accommodation. The classification and isolation of certain prisoners were difficult or impossible to effect under these conditions. At the same time, the Inspector, for one, looked upon the construction necessitated by overcrowding as an opportunity to introduce new penal techniques. The first stage of the Crofton system could easily be inaugurated at the Dorchester, St. Vincent de Paul, Manitoba and British Columbia penitentiaries, he explained. It was "only necessary to construct one of the projected wings with larger, more lightsome cells, where convicts, upon first entering, and the bad and incorrigible,
could be confined apart from the other prisoners."

Inspector Moylan's suggestion was not given practical effect at these institutions. Until the late 1880s their wardens were fully occupied providing ordinary single cells for their respective convict populations.

A prison of isolation was built at Kingston Penitentiary in the early 1890s as a centralized alternative to penal wings at each prison. This Kingston penal prison was in part an outgrowth of cell enlargement set in motion at the penitentiary for humanitarian reasons. As early as 1887 the Inspector of Penitentiaries had urged that the original, narrow cells at Kingston be made roomier "in keeping with the progress and spirit of the times." It was decided concurrently to refit one wing as a prison of isolation. This prison was valued as a desirable penal innovation and as a source of additional convict accommodation while regular cells were being altered. Practical and penological concerns combined to prompt its construction.

The dictates of prison security underlay certain improvements undertaken or planned in the 1890s. By the turn of the century boundary walls were in place at St. Vincent de Paul, extended at Kingston Penitentiary and under construction at Manitoba Penitentiary. Dorchester Penitentiary still relied in 1900 on a wooden stockade to prevent escapes but plans were in motion at that time to replace it by a wall of stone. Other alterations through the entire late nineteenth-century period were part of a continual adaptation of the
prison's physical plant to contemporary technical innovations. In the 1880s steam heating replaced stoves at Kingston Penitentiary. Electric lighting superseded gas illumination at that same institution in 1891. Modernization led to penitentiary modifications throughout the system.

During the late nineteenth century most federal prisons were enlarged and altered. Yet, Kingston Penitentiary occupied a special place within the penitentiary system through that entire period despite those changes. The size and specialization of Kingston Penitentiary contributed to its importance. Its insane ward, female prison and, from 1894, prison of isolation, drew special classes of convicts from the other penitentiaries to Kingston for confinement. Kingston Penitentiary had the capacity to accommodate surplus convicts from its sister prisons at times of overcrowing. These were important facets of a more general predominance.

For many years Kingston Penitentiary served as a model for other federal prisons. Warden Duchesneau of St. Vincent de Paul Penitentiary, for example, sought to institute the Kingston Penitentiary method of bookkeeping at his prison when he assumed office in 1875. Edward Blake, as Minister of Justice in 1875, commended the Kingston practice to Warden Bedson of Manitoba Penitentiary as a guide in the writing of his first annual report. Warden Duchesneau was one of several officers sent at different times to Kingston Penitentiary to study its procedures. Sir John A. Macdonald noted in 1882 that the Justice Department "had
adopted the plan of sending the new officers of the other institutions to Kingston for a training. Kingston Penitentiary wardens gave advice by mail to their brother wardens on a variety of matters in the period.

In addition, the Kingston Penitentiary staff were instrumental in spreading that institution's expertise throughout the system. James Adams, a long-time Chief Trade Instructor at Kingston Penitentiary, exerted a notable influence upon Canadian prison architecture. In conjunction with a colleague, Thomas Painter, Adams designed the Manitoba and British Columbia Penitentiaries. After many years shaping and overseeing building projects at Kingston Penitentiary, Chief Trade Instructor Adams was transferred to superintend construction of a Dominion Reformatory at Alexandria Bay. At his retirement he was Architect at St. Vincent de Paul Penitentiary.

In 1873 a number of Kingston Penitentiary officers were sent to St. Vincent de Paul with its first convicts to provide a core of experienced staff. James Fitzsimmons was transferred from Kingston Penitentiary to become British Columbia Penitentiary's first Deputy Warden. He was instructed to "carry out the administration...on the plan of Kingston Penitentiary." The Kingston prison Engineer in 1893, James Devlin, was ordered to British Columbia Penitentiary to help install its heating and water works. In 1901 a convention of wardens recommended that E.J. Adams, his father's successor as Kingston Penitentiary Chief Trade Instructor, be made available to all the federal prisons. In these ways the influence of Kingston Penitentiary practices proliferated.
Kingston Penitentiary was pre-eminent in the sphere of prison industry. That institution’s large pool of convict labour and its variety of workshops gave it an industrial capacity sufficient to supply many items required by other federal prisons. Convict clothing, officers’ uniforms, and iron work, were the most popular penitentiary commodities it produced. The Kingston prison, alone in the federal system, let out convict labour by contract. This contributed significantly to its annual revenues while the contract system was in force.

The dominant position of Kingston Penitentiary in the federal penal system stemmed from a variety of factors. The status of several of its wardens was one minor influence. James Moir Ferres, a former Director, headed the institution between 1869 and 1870. His successor as warden, John Creighton, administered the prison efficiently for fifteen years, bolstered by a friendship with Sir John A. Macdonald and Sir Alexander Campbell that allowed that warden to go his own way more than most. A more important consideration was the sheer size of Kingston Penitentiary’s convict population. This allowed a greater industrial output and required a larger, more specialized staff than was the case at the other prisons. Kingston Penitentiary always confined considerably more prisoners than the next largest institution, St. Vincent de Paul. (See Appendix A) Most importantly, however, Kingston Penitentiary at Confederation was a long established institution with an experienced staff and a well-developed
administrative routine. As the other penitentiaries matured, their initial dependence upon Kingston Penitentiary lessened. Kingston Penitentiary, itself, began to benefit from innovations elsewhere in the system. Yet, although the other prisons grew in convict population, experience and importance, Kingston Penitentiary's premier position remained intact at the end of the nineteenth century.

Despite a trend toward administrative uniformity after Confederation, Canada's federal penitentiaries each developed and retained certain distinctive features. Dorchester Penitentiary confined military and naval prisoners from its opening in 1880, as Halifax Penitentiary had done before it. St. Vincent de Paul was plagued with maladministration and staff problems almost continually through the late nineteenth century. Manitoba Penitentiary, under Warden Bedson, was noted for strict discipline and an almost perfect maintenance of order. A.G. Irvine, a later Manitoba Penitentiary warden, underlined the agricultural focus of that prison in his repeated suggestions that it serve as a model farm. Both the Manitoba and British Columbia penitentiaries held significant numbers of Indian prisoners. The latter institution was characterized by a large Chinese convict population as well. Kingston Penitentiary stood out for all those factors that made it such a central element in the system.

These were the penitentiaries administered federally through the late nineteenth century. At the ministerial level, authority over these institutions was divided. Yet, a peni-
tentiary service hierarchy under the Department of Justice had the primary responsibility for their operation. The penitentiary was important as the basic structural unit in the federal penal sphere. The penitentiary service staff was another central component of the system. The physical plant of the prison imposed limitations upon what could be accomplished within its walls. Those who operated Canada's federal penitentiaries had a similar practical impact upon what could have been and what was undertaken within the prisons of the day.

II

In the late nineteenth century the Department of Justice was the federal ministry most directly involved with the penal system. Other cabinet ministers had a limited jurisdiction in the field. Some penitentiary appointments were the prerogative of the Governor in Council as opposed to the Minister of Justice acting alone. Certain penitentiary officers were required by statute to file bonds for the "faithful performance" of their duties. They did so with the department of the Secretary of State. Warrants from the Secretary of State were necessary for commutations, pardons or the transfer of prisoners from one institution to another. Yet despite the jurisdiction of the department of the Secretary of State in penal matters, the role of Public Works in that area was more important. From 1874 the Department of Public Works stood second only to the Justice Department in its authority with respect to penitentiaries.
Prior to Confederation the Department of Public Works superintended the railways and canals as well as general public construction and repair. After 1867 its primary responsibility shifted to the latter functions. This realignment was confirmed by the creation of a separate Department of Railways and Canals in 1879. In 1874, as part of the expansion of the Public Works' "housekeeping" role, a Public Works Department Architect assumed all duties previously performed by the Kingston Penitentiary Architects. The Penitentiary Act of 1875 confirmed the augmented jurisdiction of the Public Works Ministry in the penitentiary sphere.

The Public Works intrusion into prison affairs soon aroused opposition within the penitentiary service. Much of the protest concerned the quality of Public Works' construction, its tardiness making repairs and the circuitous channels of communication set up for prison works. Inspector James G. Moylan, a critic of Public Works Department authority in the prison field, exhaustively detailed flaws in the way that department built the Manitoba and British Columbia penitentiaries. Warden Bedson of Manitoba Penitentiary claimed that inexcusable slowness in prison construction was the result of reliance upon the Public Works ministry. Public Works' failure to supply building materials in due time was a problem at St. Vincent de Paul. Inspector Moylan asked in 1885 that more discretion be given to Public Works' agents in the field if responsibility for construction could not be returned to the Department of Justice. In prison construction
matters the chain of request and command ran up, the penitentiary service ranks from the warden to the Inspector to the Justice Department staff over to the Public Works Department and down to the local agents of that ministry. Apparently the Public Works Department insisted on these cumbersome "proper channels". An exasperated Inspector Moylan deplored the "needless correspondence" required to deal with the smallest details.

Divided jurisdiction sparked resentment in those penitentiary officials whose authority had previously been more complete. On the personal and departmental levels friction between Justice and Public Works was the manifestation of an inter-institutional clash for power. Warden Lavell of Kingston Penitentiary complained one year after his appointment that the Supervising Architect at the prison did not fully inform him on construction matters. Insisting that he be consulted when convict labour was required, Warden Lavell argued that a sharp line should be drawn between Justice Department and Public Works authority. At the Regina Jail the Public Works' agent several times disregarded the protests of the gaoler on a building question, to the anger of the Inspector of Penitentiaries later recounting the incidents. The Warden and Deputy Warden at British Columbia Penitentiary in 1888 were both annoyed that their opinion was never canvassed by the resident Public Works' agent. "If they venture to make a suggestion it is sure to be treated with disdain", Inspector Moylan claimed. Conflict coloured relations
between the warden and Public Works' officials at St. Vincent de Paul, too. At a higher echelon Inspector Moylan was decidedly hostile to Public Works' Department inroads. At least once in the 1880s, too, the Deputy Minister of Justice allowed penitentiary officials to bypass the Public Works Department to obtain material which that department was dilatory in supplying.

In 1889 John S.D. Thompson, then Minister of Justice, moved to reduce the Public Works Department role in penitentiary construction. He announced in the Commons in February, 1889, that appropriations for prison work to be performed by convict labour would now be a part of Justice Department estimates, instead of being in Public Works estimates as before. The Justice Minister expressed confidence that penitentiary officers would be fully able to supervise such works in future. In operational penitentiaries of the period virtually all construction was performed by convict labour. Consequently, Thompson's 1889 position went far toward eliminating Public Works' activity at federal penitentiaries. The reasons for the Justice Minister's action can only be surmised. It is probable that he, like many of his subordinates, was aware of the difficulties arising from the divided jurisdiction. He may have been anxious as well for a fuller Justice Department control in this important area of responsibility.

The Minister of Justice was reconfirmed in his course in June, 1889, when he discovered to his considerable
annoyance that the Public Works Department was proceeding with a new wing at St. Vincent de Paul instead of a boundary wall as he, himself, wished. In 1890 Public Works' stores at federal prisons were taken over by the Justice Department, certain Public Works employees were let go, and others were incorporated into the penitentiary service. Afterwards the Public Works Department was relied upon for little more than plans in construction at penitentiaries. Legislation in 1895 removed those penitentiary works that the Minister of Justice judged could be undertaken by convict labour from formal Public Works Department jurisdiction. The 1906 Penitentiary Act went further, placing all penitentiary construction and repair under the control of the Minister of Justice.

Within the Department of Justice, itself, an extensive bureaucratic hierarchy was charged with giving the penitentiary system practical shape. At Ottawa certain officials of the Justice Department, including the Deputy Minister, dealt with penitentiary matters. Most correspondence between headquarters and individual prisons was conducted through the Directors of Penitentiaries and after 1875 their successor, the Inspector of Penitentiaries. While the administrative power at this level varied, both the Directors and the Inspector performed considerable clerical labour on penitentiary affairs as well as a regular routine of institutional inspection. The penitentiary wardens wielded a decreasing degree of executive authority in the late nineteenth century. Yet,
as the chief officers at their respective institutions, the wardens were important elements in the bureaucratic stream. There were many gradations of staff below the warden at each prison: One key differentiation among them was the source of appointment. A few of the highest officers were named by Order in Council. A number of others below them were selected by the Directors and, later, the Minister of Justice. The lowest ranks, the bulk of the staff, were the choice of the Warden. This division determined the pension, standing and security of tenure of prison officers.

Few officers at individual penitentiaries had an opportunity to influence government decisions on the content of the system. Each warden and certain key staff members were required to submit annual reports. In many cases these contained recommendations of change. However, there is little evidence that the suggestions in the annual reports had much impact upon departmental policy. John Creighton, Warden of Kingston Penitentiary between 1870 and 1885, exerted more influence through private correspondence than through public reports. Creighton's advice to Sir Alexander Campbell contributed to the introduction of a measure in 1883 increasing convict remission. Although many of the other wardens were alert to new penal theories, Warden Creighton appears to have been exceptional in affecting prison legislation in a significant way.

The nature of the warden's job preoccupied him with the day to day aspects of running an institution. Wardens helped
to form the content of the penitentiary system in a practi-
cal fashion. At least one warden, Michael Lavell of Kingston
Penitentiary, was consulted by Inspector Moylan when the lat-
ter was drafting regulations in 1892. The Justice Depart-
ment, too, often sent wardens to examine the working of pri-
sons in the United States. In this manner the chief officer
of the penitentiary had an impact.

Generally, a warden's regime had a distinctive tone
that reflected his special emphases and character. Despite
attempts to impose uniformity in penal practices at the insti-
tutions of the system, some marked variations existed in prac-
tice. On his inspection of Manitoba Penitentiary in 1892,
for example, Inspector Moylan was shocked to find that con-
victs were regularly denied privileges in their first three
months of confinement. This "wrong and unauthorized" proce-
dure had presumably been the rule at Manitoba Penitentiary
for some time before the Inspector's discovery. The dif-
fferences among punishments awarded for prison offences at
each penitentiary in this period also suggest that, in a
minor way at least, individual approaches to convict treat-
ment were widespread. (See Chapter Five below.)

Warden John Creighton of Kingston Penitentiary went
farthest in establishing a distinctive method of dealing with
the convicts under his charge. The key to his success was a
constant personal supervision of all parts of the prison and
a remarkable devotion to duty that allowed him some personal
acquaintance with all those under his care. Largely in the
interests of economy, Warden Creighton allowed well-conducted
convicts to assume positions of responsibility in the prison.
This had a beneficial effect when combined with the Warden's
interest in the convicts and his attempts to help the pri-
soners he felt were deserving. Convict opinion of Warden
Creighton was apparently revealed in remarkably good conduct
in the last weeks preceding his death in 1885. Inspector
Moylan attributed this to a common inmate desire "to do noth-
ing that would...disturb or annoy him whom they had learned
to esteem as a benefactor."

Although its members did not determine penal policy, the
regular staff at each penitentiary was crucial to the imple-
mentation of policy. Certain officers were specifically
charged with the betterment of the prisoners. In theory, at
least, the specialized tasks of the chaplains, school master
and trade instructors tended to a reformatory result. The
vigilance and zeal of the entire staff in reporting misde-
meanors was essential to the successful assignment of remission.
In addition, the example of upright staff character and proper
deporntment was stressed as a central reformative influence.
This theme was incorporated within the 1888 Rules and Regula-
tions. Each guard was ordered to conduct himself "in such a
way as to inspire sentiments of respect for his moral prin-
ciples and character." The "moral obligations" assumed by a
guard "with reference to his own personal conduct, from the
time he is engaged", were linked to the aim of convict refor-
mation. Many chaplains, in particular, deemed it essential
that the other officers practice what was preached if efforts to reform were not to be wasted.

The reformative role articulated for staff members, particularly for the guards and keepers who were in closest and most continuous contact with the convicts, was to set an example to their charges. Yet, the mode of staff organization, salaries, and working conditions in the late nineteenth century penitentiaries were not such as to attract guards and keepers motivated to furthering convict reformation. Certain upper echelon officers aside, there is little evidence that prison staffs were concerned with the rehabilitation of inmates or with the presentation of a model of conduct. Apparently, men joined the penitentiary service despite its drawbacks for reasons unconnected with the penal methods involved in prison work. Although officers fell short of the reformative ideal, staff abuse of the convicts was the exception. The adequate performance of their duty to control and contain the prisoners appears to have been the norm.

The staff at each Canadian federal penitentiary was organized along paramilitary lines. One authority on the historical development of the British penitentiary service has argued that this type of hierarchical staff structure was adopted in England because of its crisis controlling potential. The containment of prisoners was a prerequisite to the fulfillment of the punitive and reformative purposes of the prison. Such containment was taken for granted in public discussion of the aims of the penitentiary, but
nevertheless, staff organization in Canada, as in England, was geared to the performance of the containment task. In Canadian penitentiaries detailed regulations limited each officer's discretion in action and aimed at preventing abuses. Elaborate uniforms, varying by rank, served as a visual indication of standing. Each officer's role was clearly delineated. Communication from top to bottom was facilitated.

Extensive rules and penalties were used to enforce staff discipline in the Canadian penal system. Penitentiary officers were subject to reprimands, fines, suspension, demotion and dismissal for lapses in the performance of their duties. This control fell most heavily on the guards. A warden could discharge a guard for inefficiency with little recourse on that guard's part. The 1875 Penitentiary Act allowed a warden to suspend officers appointed by the Minister of Justice on the ground of misconduct. The concurrence of the inspector was required to make the suspension permanent. The 1875 statute gave the inspector the power to suspend staff appointed by Order in Council, subject to the final decision of the Minister of Justice. Those in the lowest ranks of the penitentiary service could be dismissed most easily. Consequently, those officers were least secure in their positions.

Prison personnel were closely supervised in the interests of staff discipline. The deputy warden ensured that officers were attentive to their duties and he reported any neglect. Regulations stipulated the number of times each day that the deputy warden was to visit all parts of the prison in the
conduct of his surveillance. One of the tasks of the Chief Keeper was to assist the deputy warden in detecting breaches of discipline. The regular visits of the Inspector of Penitentiaries and his periodic inquiries were parts of the same process of superintendence. Special commissioners and commissions of investigation were also employed by the Justice Department in the late nineteenth century to a similar end.

The Department of Justice exercised considerable authoritarian direction over the lives of penitentiary employees. Upon Sir John A. Macdonald's instruction as Minister of Justice in 1873, a number of Kingston Penitentiary guards, keepers and trade instructors were given the choice of going to St. Vincent de Paul to be part of its staff or being fired. Prison regulations forbade any officer discussing penitentiary affairs outside the prison walls. Throughout the late nineteenth century a sometimes written, sometimes unwritten rule required staff members to reside nearby the prison, preferably within earshot of the alarm bell. Although the enforcement of this regulation was uneven, it nevertheless placed some degree of restriction upon the staff officers. Regulations in 1888 set a standard of guard behaviour that was to apply off duty as well as on. In addition, common factory devices such as time clocks and mandatory signing in and out were employed in the 1890s to regulate hours of work. These were some of the restrictive working conditions faced by those in the nineteenth century penitentiary service.
Penitentiary pay was apparently not sufficient to attract highly motivated individuals into the lower echelons of the service. The inspectors and wardens frequently despaired of drawing the best men with existent rates of pay. Serious staff turnover at British Columbia Penitentiary and Manitoba Penitentiary was blamed upon a high cost of living in combination with meagre wages. Officers at all the federal prisons periodically complained of insufficient salaries. In 1867 one Kingston Penitentiary warden contended that guard salaries were inferior to the pay of many "common labourers". However, a comparison of wage rates in the period with officers' salaries suggests that this was not the case. (See Table 2-1.) Guard and keeper salary levels compared favourably, it would seem, with the wage rates of certain categories of unskilled and skilled workers. It can be surmised, however, that work in the bottom ranks of the penitentiary service carried a low status. Salaries may not have been high enough to overcome that disadvantage, thus, proving insufficient to attract the best candidates for the job.

The limited evidence that is available suggests that the prison guards, in particular, were drawn predominately from the labouring class, as were the majority of convicts. The 1886 Rules and Regulations, for example, demanded only a "rudimentary education" from the guards and the ability to read and write "tolerably well". In 1892, too, the Minister of Justice, Sir John Thompson, explained to the Commons that "it is principally from the labouring class we have to recruit
### TABLE 2 - 1

**SELECTED PENITENTIARY STAFF AND OTHER OCCUPATIONAL WAGE RATES -- 1871, 1883, 1896**

**1871 Penitentiary salaries per annum:**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warden</td>
<td>$1,000-2,600</td>
</tr>
<tr>
<td>Trade Instructor</td>
<td>500-700</td>
</tr>
<tr>
<td>Schoolmaster</td>
<td>250-600</td>
</tr>
<tr>
<td>Keeper</td>
<td>$400-500</td>
</tr>
<tr>
<td>Guard</td>
<td>350-450</td>
</tr>
</tbody>
</table>

**1871 Selected annual incomes in Toronto based on average wage rates reported by Toronto immigration agent:**

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butcher</td>
<td>$260</td>
</tr>
<tr>
<td>Carpenter</td>
<td>390</td>
</tr>
<tr>
<td>Millwright</td>
<td>260</td>
</tr>
<tr>
<td>Plumber</td>
<td>$260</td>
</tr>
<tr>
<td>Cotton Weaver</td>
<td>260</td>
</tr>
</tbody>
</table>

**1883 Penitentiary salaries per annum:**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warden</td>
<td>$1,000-3,000</td>
</tr>
<tr>
<td>Trade Instructor</td>
<td>500-750</td>
</tr>
<tr>
<td>Schoolmaster</td>
<td>250-600</td>
</tr>
<tr>
<td>Keeper</td>
<td>$400-600</td>
</tr>
<tr>
<td>Guard</td>
<td>350-600</td>
</tr>
</tbody>
</table>

**1883 Selected annual income ranges in Montreal based on wage ranges reported by immigration agents:**

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm labourer</td>
<td>$260-390</td>
</tr>
<tr>
<td>General labourer</td>
<td>260-325</td>
</tr>
<tr>
<td>Carpenter</td>
<td>$585</td>
</tr>
<tr>
<td>Mill hand</td>
<td>260-390</td>
</tr>
</tbody>
</table>

**1896 Basic Penitentiary salaries per annum:**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warden</td>
<td>$2,000</td>
</tr>
<tr>
<td>Trade Instructor</td>
<td>700</td>
</tr>
<tr>
<td>Schoolmaster</td>
<td>800</td>
</tr>
<tr>
<td>Keeper</td>
<td>$600</td>
</tr>
<tr>
<td>Guard</td>
<td>500</td>
</tr>
</tbody>
</table>

**1896 Selected annual income ranges in Montreal based on wage ranges reported by immigration agents:**

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm labourer</td>
<td>$260-325</td>
</tr>
<tr>
<td>General labourer</td>
<td>260-390</td>
</tr>
<tr>
<td>Carpenter</td>
<td>$390-520</td>
</tr>
<tr>
<td>Mill hand</td>
<td>260-390</td>
</tr>
</tbody>
</table>

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1 Based on assumption of continuous employment through year.

Sources: Canada, Statutes 1868, Chapter 75, Schedule B; Canada, Statutes 1883, Chapter 37, Schedule A; Canada, Statutes 1895, Chapter 42, sec. 6; M.C. Urquhart and K.A. Buckley, eds., Historical Statistics of Canada (Toronto: The Macmillan Co. of Canada, 1965), pp. 93 – 95.
our guards and keepers". Thompson favoured greater recruit-
ment from police or army ranks to gain men with "training
and a notion of discipline" who "can give a better example in
bearing and conduct and language than the ordinary labourer
can." The wage rates of guards and keepers support this
subjective evidence. Under normal circumstances it would
seem that keeper and guard salaries were sufficiently higher
than the wages of unskilled workers to prove attractive to
ordinary labourers. On the other hand, salary differentials
between skilled workers and lower echelon penitentiary offi-
cers were neither large nor consistent. Craftsmen, then, had
much less incentive than labourers to enter the penitentiary
service as guards or keepers, particularly if such prison work
did, indeed, imply a low occupational standing. Given the
common class origins of the convicts and the lower rank
officers, it is not surprising that there were similarities
in the ways in which both groups were treated within the
penitentiary system. Each was subject to surveillance, far
reaching control and firm discipline. The Directors in 1871
flatly stated their conviction in this vein "that officers,
as well as the convicts, require to be governed with strict-
ness". There were common elements as well in prison staff
discipline and industrial discipline. The fines, time clocks
and surveillance all fall within this category. On the
other hand, conditions faced by prison guards and keepers had
much in common with life in the ranks of the army in its
hierarchical organization and discipline. Not surprisingly
many penitentiary officers were originally from the military.  
In each of these occupational areas members of the labouring class faced certain similar forms of discipline.

Men entered the penitentiary service, despite its working conditions, for a variety of reasons. Pecuniary considerations were prominent. Although salaries were the subject of complaint, wage levels almost certainly had appeal for those without skills. Moreover, the penitentiary service offered year round work, such continuous employment was something the ordinary labourer seldom enjoyed. Another attraction of penitentiary work was the measure of old age security that came with the retirement payments traditional in the service. Those officers appointed by Order in Council were given the opportunity of contributing to the government superannuation fund to ensure themselves a pension upon retirement. The bulk of the staff were not entitled to participate in the superannuation fund. However, they did receive a lump sum gratuity if they retired as a result of ill health or old age. The rule for calculating the gratuity varied, but generally some part of a month's salary was paid for every year of service. If an officer died in service his widow received an amount equal to several months' salary. Although the size of this sum fluctuated, it was customarily much smaller than the retirement gratuity.

Retirement benefits were important to the nineteenth century prison officer. Warden Creighton of Kingston Penitentiary felt that many of his men remained in the service
because of their reluctance to abandon the retirement gratuity. At Dorchester Penitentiary officers asked several times to participate in the more satisfactory superannuation fund. Warden Bedson echoed the same concern in a request in 1890 that prison staff be given the same rights as other civil servants with respect to pensions. Kingston Penitentiary officers asked for civil servant pension status in 1890 and 1893. Clearly, the men in the penitentiary service looked ahead with anxiety to that time when, as one inspector put it, "they are for the most part 'used up', and unfit for any other occupation".

Paternalism was the reverse side of the control exerted over those in the service. Prison employees received certain benefits above salary. In several instances housing was constructed adjacent to prisons for staff occupation at no cost. The aim was to facilitate the residence of officers close to the penitentiary, particularly when that penitentiary was in a remote locale. At Dorchester Penitentiary, Manitoba Penitentiary and British Columbia Penitentiary such quarters were provided in the 1880s. In 1892 Inspector Moylan recommended that New Westminster prison officers be paid a rent allowance because government accommodation was not available for them. By 1893 an appropriation had been voted for staff housing at Kingston Penitentiary. Douglas Stewart, successor to Moylan as Inspector in 1895, did not share his predecessor's enthusiasm for free staff housing. Stewart felt that "the enterprise of landlords and builders" was
sufficient to meet the need. Even so, the policy of providing staff accommodation at the Minister of Justice's discretion was continued.

Penitentiary officers enjoyed a varying range of perquisites through the late nineteenth century. Wardens participated most fully in these. Warden John Creighton, for example, was able to list "free quarters, fuel, light, forage for a horse and cow, and fruit and vegetables raised in his garden" as some of the extras with which he was provided. His deputy warden was given lodging, fuel, light and a garden worked by convict labour, all at no cost. The Kingston Penitentiary Farmer Gardener received forage for a cow and vegetables for his family.

At each penitentiary certain benefits were extended to all employees. Free medical care through the prison surgeon fell within this category. Intermittently at St. Vincent de Paul, Stony Mountain and New Westminster, access to medical treatment was also offered at no charge to the families of the staff. Every officer was provided with uniform clothing. In some cases prison employees were allowed to have items made by convicts and to purchase supplies from the penitentiary at contract rates. Perquisites, both legislated and hidden, were ever present in the late nineteenth century as something that made employment in the service more palatable.

In many instances individual penitentiaries employed more than one member of a family. Wardens, not surprisingly, were best able to secure positions for close relations.
Archibald Macdonell served as Warden's Clerk under his father, D. Aeneas Macdonell, Warden of Kingston Penitentiary until 1869. Robert Creighton occupied the same position under his father, Warden John Creighton of Kingston Penitentiary. The younger Creighton himself became a warden of Kingston Penitentiary early in the twentieth century. At Halifax Penitentiary the wife of Warden Robert Donkin served as Matron until her death in 1873. The Warden's niece then filled the post. In the penitentiary service, in general, sons often aided their elders and succeeded to their posts upon the father's retirement. In 1892 William Sullivan, a Deputy Warden at Kingston Penitentiary whose own son later became a prison officer, was able to list a number of men on the staff at that time who were related. By 1892 a rule was in place prohibiting the appointment of near relations of existing officers to the staff of the same institution. That very year, however, pressure was exerted by two such relations to have the rule set aside. Later, in 1898, penitentiary regulations more formally banned the hiring of the father, brother or son of any officer at the same penitentiary.

For a variety of reasons family traditions of prison work developed in the nineteenth century. Wardens employed their relations to augment family income and to ensure trustworthy occupants in such sensitive posts as the Warden's Clerkship. The employment of one family member undoubtedly eased the entry of his relations into the service, if only as a result of a warden's desire to aid his associates.
A penitentiary officer's family was familiar with his work and most probably had a more positive attitude toward it than did the general public. Moreover, prison employees usually lived close by the penitentiaries where they worked. In some cases members of their families may have been led to prison work by the lack of other local employment opportunities. All of these considerations led many to enter the service despite the negative aspects of the job.

Most of those who did become penitentiary officers appear to have performed capably their basic task of containing and controlling the prisoners. A few officers unwarrantably assaulted convicts under their charge and some were found guilty of theft and similar illegal practices. These abuses were the exception. On the other hand, there is little reason to assume that the ideal of a strong reformatory example in staff conduct and character was attained. The pay and prospects faced by the bulk of the staff were not such as to attract men inspired to be active agents in reformation, even if such a role had been clearly defined and widely accepted, which it was not. Some officers were so far from the unrealistic staff model cherished by many chaplains as to "scoff and gibe" at convicts attending meticulously to religious duties. A few guards made no attempt to conceal their contempt for the convicts; others were apparently sympathetic. The operation of the penal system ensured that the bulk of the staff were equal to the performance of their basic prison duties and little more.
Above the staffs of each penitentiary was a level of authority where a keen interest in penal theory and innovative penal methods was intermingled with the practical concerns that so preoccupied those lower in the ranks. Between 1868 and 1875 a three-man Board of Directors fulfilled the administration and inspection functions connected with this stratum of the service. James G. Moylan, Secretary Director from 1872, succeeded to the new post of Inspector of Penitentiaries in 1875 and performed the duties of that office until his retirement in the spring of 1895. He was followed in turn by Douglas Stewart, an official who acted as Inspector of Penitentiaries into the twentieth century.

For a short time in the late 1870s the government experimented with the appointment of Assistant Inspectors to assist in the superintendence of the most distant prisons. Those Assistant Inspectors performed only limited tasks and had little of the power or long-term importance of the Directors or Inspector.

The extent of administrative duties and power residing at the Director-Inspector level varied significantly through the late nineteenth century. Several obligations remained constants, however, and these ensured that the Board of Directors, and then the Inspector, would be the major points at which new theory and techniques could enter the federal penal system. The Board of Directors and the Inspector were each charged by statute with framing penitentiary rules and regulations. This demanded a thorough knowledge of methods
of prison discipline. The Directors and Inspectors were required to submit an annual report which customarily included recommendations for improvement. This necessitated a familiarity with new techniques and provided one means of promoting them.

The Board of Directors and the two nineteenth century Inspectors of Penitentiaries kept informed of international penal congress proceedings. They persistently urged Canada's attendance at these gatherings, as a rule with little result. In addition, they remained abreast of contemporary penological developments through reading, correspondence and the exchange of reports with other jurisdictions. The Directors and Inspectors were the dominant authorities within the prison system upon matters of penal method and theory. Their close contact with all the penal institutions under federal control added further to their expertise. From their key position within the system both the Directors and the Inspectors exercised an important influence upon its penological content.

The members of the Justice Department headquarters staff that dealt with penitentiary matters played an increasingly important role in the late nineteenth century. Penal innovations were administered through this staff level. A few minor penal changes originated with the Deputy Minister of Justice or those immediately below him. The headquarters staff was most significant, however, for its attempt to use administrative means to impose centralized control upon the geographically dispersed and parochial institutions of the
system. Justice Department bureaucrats were aided in this task by a progressive centralization of authority within the penal system between 1867 and 1899.

III

Through the late nineteenth century the distribution of power within the penitentiary system shifted conclusively towards the Minister of Justice and his headquarters staff. By 1899 much of the independence and mastery once enjoyed at the individual prison level had been eroded by the expanding authority of the Minister of Justice. New administrative techniques and the increasing rationalization of penitentiary administration accompanied the process of centralization and reinforced that process by making central control more effective. The centralization and rationalization of administration altered the nature of the penitentiary system between 1867 and 1899.

In the immediate post-Confederation period the role of the Department of Justice in penitentiary affairs was theoretically limited. A three-man Board of Directors of Penitentiaries was established in 1868 to oversee the operation of federal prisons. The Board of Directors was essentially a continuation of the pre-Confederation Board of Inspectors of Asylums, Prisons and Public Charities, under a new name. The appointment of the Board of Directors represented a post-Confederation extension of earlier central Canadian reliance upon boards in the administration of social welfare. These boards were a means of keeping penitentiary administration apart from direct political control and responsibility.
The Board of Directors occupied a prominent, semi-autonomous, but ill-defined, position within the post-Confederation penal system. Sir John A. Macdonald reflected this reality when he explained to the House in 1868 that the Board "would be in a great degree an administrative body, and at the same time perform all the duties of direction, consultation and active supervision." In performing their wide-ranging tasks, the Directors submitted any matters of importance, even those they were legally entitled to determine by themselves, to the consideration of the Minister of Justice, Sir John A. Macdonald. Macdonald and his Deputy Minister of Justice took an active interest in penitentiary business. Yet, in law at least, the Board of Directors was subject to the control of the Governor-in-Council alone.

The Penitentiary Act of 1875 transferred power in a sweeping fashion from the Board of Directors to the Minister of Justice and his department. This legislation was passed during the tenure of a Liberal Minister of Justice, Telesphore Quimet. By the terms of this statute the Minister assumed the authority to appoint all those officers whose selection had formerly been the prerogative of the Directors. The three-man Board of Directors was replaced by a single Inspector of Penitentiaries specifically designated as "an officer of the Department of Justice". The 1875 Act presented a sharp contrast to the 1868 Penitentiary legislation which had not even mentioned the Minister of Justice as a controlling factor in the penal sphere. The 1875 Act placed
all Canadian penitentiaries directly under the Justice Minister's authority and provided him with "complete administrative power" in the field.

The 1875 Penitentiary Act represented an abandonment of the non-political board in prison administration in favour of a clearer, more direct ministerial responsibility. The new Inspector of Penitentiaries was charged with the performance of duties of inspection and administration roughly similar to those of the Directors. As a leading member of the Justice Department headquarters staff concerned only with the penitentiary system, the Inspector of Penitentiaries was destined to play an influential role. Yet, as the representative of the Minister of Justice, the Inspector was to be allowed less independence and personal discretion than the Board of Directors had enjoyed.

In debate on the 1875 penitentiary legislation the Liberal government offered several reasons for the changes it proposed. The Minister of Justice justified the creation of a one-man inspectorship on the ground that the Public Works responsibility for construction and repair would diminish the functions the inspector would have to perform. He argued that the intended erection of a single Maritime prison to replace the two operating penitentiaries in that region would also reduce the inspector's workload. The Prime Minister of the day, Alexander Mackenzie, suggested that the Directors had been asked to carry out duties for which they lacked competence. He pointed to an earlier Board of Directors'
purchase of three thousand dollars worth of largely "useless" ma"erial for St. Vincent de Paul as an example. The Government's realization that "firmer hands must deal with these matters" presumably prompted the major feature of the 1875 Act, the expanded power of the Justice Minister.

In parliamentary discussion on the 1868 Penitentiary Act Mackenzie had opined that two rather than three Directors would suffice. His Liberal colleague, A.A. Dorion, had urged that only one inspector be appointed. The penitentiary law of 1875 was in keeping with this earlier Liberal animus against a board of three men where one official might be enough. It was also in harmony with the liberal principle of clear ministerial responsibility for government action. In this respect the parallel Ontario Liberal replacement of the Superintendent of Education by a Minister of Education is noteworthy. The Liberal government may also have wished to increase the penitentiary patronage under its direct control. It cannot be demonstrated, however, that this was a factor.

The Penitentiary Act of 1875 inaugurated a process in which authority was increasingly centred in the Minister of Justice. It was a process that affected the warden's power of appointment. The 1868 Penitentiary Act authorized the warden to hire a Clerk, Assistant Deputy Matron and Guards. In 1870 Keepers were added to those he was entitled to appoint. This situation obtained until 1898 when regulations decreed the Minister of Justice's exercise of "complete administrative power in connection with the selection of officers".
Thereafter the warden was limited to the appointment of temporary police in instances of emergency. The virtual elimination of the warden's appointment power by 1898 was indicative of the general decline in the warden's independence in this late nineteenth century period.

The logic of a central concentration of power over penitentiaries resided in the nature of the system itself. The three penitentiaries under federal control at Confederation were widely separated by traditional practices and distance. The establishment of new institutions exacerbated the situation. A powerful unitary direction was required to ensure that desirable penal practices were carried out and to discharge properly the responsibility for the system given first to the Directors, and then, the Minister of Justice. Effective supervision from Ottawa was also needed to prevent the abuses which might be the product of unhindered local prison administration. Centralization was a bureaucratic phenomenon that seemed to gather its own momentum within the Justice Department as the process proceeded. It facilitated the application of rationality and standardization in the administration of the system. At the same time, measures promoting those latter values both demanded and furthered the accumulation of authority in Ottawa. In large measure centralization was a product of the interaction between bureaucratic values at headquarters and the disorder and parochialism of the late nineteenth century penal system.
To imprint a uniform content upon the distinctive penitentiaries of the system was a formidable task. Two general strategies were adopted with that end in view. One entailed increased decision-making in Ottawa. The gradual augmentation of formal ministerial power contributed to this goal. Another approach aimed at greater central control over those decisions which were taken at each penitentiary. The supervision of penitentiary operation by the Inspector was part of that development. Administrative rationalization advanced centralized control in both fashions. Through rules and standardized methods of procedure, headquarters limited local discretion and influenced the content of local decisions.

Central superintendence was an early response to the problems posed by geographic dispersion. As early as 1868 it was intended that one of the three Directors would be a resident of the Maritimes and would have special charge of the Halifax and St. John Penitentiaries. From at least 1871 one Director, J.W. King, appears to have occupied that position. The opening of Manitoba Penitentiary in 1877 and the impending operation of a prison at New Westminster prompted the Liberal Justice Ministers Edward Blake and Rodolphe Laflamme to extend inspection to those institutions. Legislation in 1876 provided for the appointment of Assistant Inspectors, one for each of the two western penitentiaries. They were designated "representatives of the Inspector" and were clothed with his powers with respect to their institutions. In October, 1877, Thomas Nixon of Winnipeg was appointed
Assistant Inspector of Penitentiaries for Manitoba Penitentiary. William W. Walkem, a physician from Burrard Inlet, British Columbia, was installed on 26 December, 1878 to perform a similar function at British Columbia Penitentiary.

In the case of Manitoba Penitentiary the creation of the Assistant Inspector position formalized previous ad hoc practice. Between 1874 and 1877 Gilbert McMicken, a man employed by the government in many capacities, served as acting inspector of the Manitoba Penitentiary located at Lower Fort Garry.

The Assistant Inspector approach was not long-lived. The Department of Justice forced the resignation of Mr. Walkem in January, 1881 on the ground that his residence at Burrard Inlet was too far from the institution which he was to inspect. Despite the Minister's avowed intention at the time of appointing a successor residing in New Westminster, that step was apparently never taken. The office of Assistant Inspector in Manitoba was abolished in 1879. The Inspector of Penitentiaries suggested the reasons for the change in his 1879 - 1880 report. Assistant Inspector Nixon had not taken sufficient interest in his duties, he lived too far from the penitentiary and he had unduly complicated communication between headquarters and the warden of Stony Mountain Penitentiary. The advent of rail transportation to the west in the early 1880s may have encouraged Ottawa to think that the Inspector alone would provide more satisfactory visitation to the two western penitentiaries in future.
However, that was not the case. Inspector James G. Moylan's visits to British Columbia Penitentiary continued to be many years apart, a state of affairs that led officials of that prison to plead annually for the benefits of his presence. British Columbia Penitentiary, in particular, long felt its isolation.

In 1879 the position of Accountant of Penitentiaries was created. This represented a specialization of function at the inspector level. The new Accountant of Penitentiaries assumed the "direction, inspection and audit of the books, accounts, money transactions, and financial affairs of the penitentiaries", a task previously undertaken by James G. Moylan as Inspector of Penitentiaries. This division of labour was a step towards a more effective central supervision of prison affairs. In 1895, however, the office of Accountant of Penitentiaries was abolished. A new man, Douglas Stewart, had succeeded to the penitentiary inspectorate and it was felt that he could effectively act as an accountant for the system in conjunction with his other duties. This alteration did not signify a weakening commitment to superintendence on the part of the Department of Justice; the change was effected to achieve the same result in a less expensive way.

Officials at the inspector level strengthened headquarter's control over the penal system. The rationalization of penitentiary administration through the late nineteenth century contributed to the same end. Many of the administrative rules
and procedures that were introduced in the period reflected the bureaucratic values of uniformity, specialization, predictability and efficiency. Such measures enhanced Ottawa's direction of the system by standardizing decision-making at each penitentiary. The mutually reinforcing relationship between administrative rationalization and centralization can be seen clearly in three major areas of prison operation: staff arrangements, finance and supply procurement. Developments in these spheres typify a general Justice Department response to the particularism of the system.

Through much of the late nineteenth century the Justice Department sought greater system in its determination of penitentiary staff pay levels. The haphazard salary situation in the early years of federal jurisdiction made the need for order glaringly obvious. Staff wages were decided by Parliament in votes which fixed maximum and minimum salary levels for each rank. Maximum pay scales were intended to recompense ability, responsibility and experience, but within the limits set by Parliament the assignment of increments was an individualized process. Whole penitentiary staffs, different classes of employees, and solitary officers were not slow to apply the pressure that helped determine their remuneration. In 1873 several officers threatened resignation unless their salary demands were met. Others did resign when not satisfied.

A disparity among the salaries of officers of the same rank at different institutions complicated the pay situation.
In 1885 Inspector Moylan argued that it was unfair that the senior warden in the service, Warden Bedson, was paid considerably less than his St. Vincent de Paul counterpart. That same year British Columbia officers received less money than officers of identical rank at Stony Mountain, despite the higher cost of living in the Pacific province. Keepers at Dorchester Penitentiary in 1886 petitioned for remuneration equal to that of Keepers at Kingston and St. Vincent de Paul. These discrepancies were clearly a source of dissatisfaction.

Over time the Justice Department moved to rationalize the setting of staff salaries. A practice evolved of grading pay at different penitentiaries according to the size of convict populations. Legislation in 1887 formalized this procedure by fixing distinct maximum and minimum pay levels for each institution. It established certain amounts by which, if he merited it, an officer could progress annually to his highest salary. The 1887 statute also eliminated many of the legally recognized perquisites of upper prison officers, in return for a money commutation which was added to salaries. This attempt to remove the indeterminate recompense involved in perquisites met with questionable success. Inspector Stewart later contended that in practice "the statutory enactment regarding perquisites was ignored or set at defiance". Despite the desire to grade wages by the size of prison population and, consequently, responsibility and danger, guards at the two western penitentiaries
with fewest convicts received higher pay than other guards in the system. Minister of Justice J.S.D. Thompson attributed this deviation to the difficulty attracting efficient men to the service in the west at the lower eastern salaries. The plan to restrict annual increases to those officers who were especially deserving, broke down as well. At Kingston Penitentiary at least, the warden soon adopted the practice of recommending all eligible officers for the increase as a matter of course.

Legislation introduced in 1895 by Minister of Justice Charles Hibbert Tupper, went further, as he claimed, toward a "system of uniformity" in regard to salaries. This Act included some minor alterations in the regulations regarding the timing of annual increases and added free fuel and light to the few perquisites left to wardens and deputy wardens. However, its major innovation was the establishment of a single graduated salary scale to apply to all officers in the service regardless of penitentiary. The Minister of Justice defended the general salary schedule as a measure that would facilitate the transfer of officers from one prison to another. Tupper hoped that the single rule inaugurated by the 1895 statute would end the "representations, many of them most ingenious, in regard to the pay granted for services rendered", that had cluttered Justice Department files in the past.

The 1895 penitentiary statute effectively denied that differences in that nature and extent of duties at the
various prisons should be a factor determining salary. Debate on the bill in 1895 did recognize the conflict between the principle of uniformity and varying work and responsibility. At that time uniformity prevailed. In 1899, however, variations by prison were deemed more important. The 1899 amendment to the Penitentiary Act included a separate schedule of maximum salaries for each institution. Once again guards at the British Columbia and Manitoba penitentiaries could be given one hundred dollars more than their eastern counterparts to compensate for a higher cost of living. Other pay ceilings recognized the greater responsibility at Kingston Penitentiary and St. Vincent de Paul. The distinctiveness of the prisons in the system in this case prevailed over the aim of standardization. Nevertheless, the determination of salary levels was a more rational process at the end of the century than it had been at Confederation.

Significantly, the 1899 penitentiary legislation advanced the power of the Minister of Justice to determine the salaries of prison officers. Prior to 1899 specific rates of pay had to be approved by Parliament despite the fact that penitentiary enactments already set maximum salary limits. The 1899 amendment was apparently aimed at removing the ability of Parliament to alter on a piece-meal basis penitentiary service salaries set by the Minister of Justice. This change facilitated the consistent application of criteria of responsibility and performance in the determination of
salary levels. It also increased the authority of the Minister of Justice in this area.

Certain other staff arrangements reflected the bureaucratic aims of system and efficiency. The training of penitentiary employees was one such area that received attention in the late nineteenth century. Although actual progress in this sphere was slight, proposals were advanced for the more effective instruction of prison officers. These proposals were implemented in a later day in a continuing effort to improve the performance of the service. Staff training can be viewed, moreover, as another innovation capable of strengthening central control over the content of the penal system. In theory at least, a course of instruction established at headquarters would further the standardization of job roles and enhance Ottawa's influence on the way employees performed in the field.

Little formal training of penitentiary officers was undertaken between 1867 and 1899. From Confederation, officers at Kingston Penitentiary engaged in target practice at periodic intervals. In the 1880s efforts were made to institute military drill for staff at all the federal prisons. Penitentiary employees did participate in military drill and target practice in the 1890s. In 1882 Sir John A. Macdonald announced the government's intention of sending new officers from other federal penal institutions to Kingston Penitentiary for training. There is little evidence that this occurred on any scale. Most staff training took place
on the job, bolstered by regular explanations of the rules and regulations on the part of the warden.

Certain interested persons in the period criticized existing staff instruction as inadequate. As early as 1877 the Inspector of Penitentiaries, James G. Moylan, urged that officers in the service be given special training. His preference was for instruction similar to that provided in the army. Later in the period Inspector Moylan, Warden A.G. Irvine of Manitoba Penitentiary and S.H. Blake, President of the Toronto-based Prisoners' Aid Association of Canada, each at different times called for the establishment of a staff training school. Their recommendations did not fall on fertile ground. Institutional staff instruction was to be established later in the twentieth century, but for years those with ultimate authority in the matter clearly regarded such extensive education of the staff as unnecessary. These late nineteenth century proposals are interesting, however, for the values they reflect.

A further late nineteenth century proposal had an instructional thrust. This was the suggestion that a conference of federal wardens be convened to discuss common problems and to share expertise. In 1883 Inspector Moylan first urged that such a meeting be held. The Minister of Justice rejected the idea on the ground of expense. Two years later the Inspector again proposed a wardens' meeting, this time to facilitate the implementation of a scheme of classification. Neither this suggestion nor similar ones in 1887 were acted
Douglas Stewart, Inspector Moylan's successor, explicitly recommended the wardens' convention as a device that would tend to break down penitentiary localism in the interests of uniform administration. Stewart's representations were successful; the first of these conventions was held in 1898. At it and at others that followed the wardens participated in a useful exchange of ideas and information.

As Inspector of Penitentiaries from 1895, Stewart was the moving force behind many key administrative changes in the last five years of the nineteenth century. A number of those innovations were responses to what Stewart identified as a problem of prison localism. Inspector Stewart argued that federal penitentiaries "were not being treated as Dominion institutions, nor even as provincial prisons, but each as a municipal institution operated financially and officially for the benefit of the locality in which it was situated". This led, he felt, to an insistence by local government members that the purchase of supplies and appointment of staff should meet "the political exigencies of the locality". Stewart maintained that local influence was the source of scandals and deficiencies in penitentiary operation. "So long as it exists", he claimed, "it is useless to hope for the ideal administration which should characterize the penal institutions of a country."

Inspector Stewart sponsored policies to overcome penitentiary localism. In 1895 he urged the adoption of the single salary scale because that would ease the movement of
staff among the institutions of the system. Inspector Stewart felt that an increased transfer of officers would lead to two beneficial results: the furtherance of uniform methods of administration and discipline, and the removal of employees from local political support to a position that demanded reliance upon merit. The Justice Department did increase its transfers of penitentiary staff between 1895 and 1900. While it is doubtful that the character of the system was appreciably modified by that particular process, the Inspector's general commitment to standardization was fully evident in the attempt.

Certain other innovations during Stewart's tenure were part of a post-Confederation continuum. The aim of these measures was to further the capability and performance of penitentiary officers. A probationary period for newly appointed guards was introduced early in the operation of the federal system. By 1896 the Chief Keeper at Kingston Penitentiary—customarily examined would be guards on their duties and on the use of firearms as a prerequisite to permanent employment. For much of the late nineteenth century surgeons and chaplains were allowed to work outside the penitentiary in addition to discharging their prison duties. In 1895, however, the Minister of Justice moved to restrict these officers, like the others, to penitentiary employment along. Wardens, the Inspector, and the Justice Department headquarters' staff were generally anxious that officers unfit for duty be retired. The warden had the prerogative
of superannuating staff members who had grown inefficient. Gradually, however, rules were introduced to insure more systematically that officers were physically able. The 1888 Rules and Regulations barred the appointment of any guard over forty. In 1889 it was suggested that keepers and guards be compelled to retire at age sixty. In 1899 Inspector Douglas Stewart requested a surgeon's report on the physical condition of the officers of at least one penitentiary with a view to weeding out the inefficient. These initiatives were designed to promote a capable penitentiary service.

The Justice Department instituted changes in the administration of penitentiary finances to the same ends of standardization and efficiency which prompted new staff arrangements. Yet, those measures which strengthened fiscal uniformity also promoted central control. In the financial sphere rationalization and centralization were both advanced in a mutually reinforcing fashion.

The Board of Directors was initially charged with supervising penitentiary finances, auditing accounts and exacting monthly statements. The replacement of the Directors by an inspector in 1875 had ramifications for the superintendence of finances. To compensate for the less frequent inspections demanded of the Inspector of Penitentiaries, wardens were required to send the Inspector extensive monthly returns including details of revenue and expenditure. In addition, the federal Finance Department established a standard system
of accounts to be used at each penitentiary and instructed individual prison accountants in that method. In 1878 the warden's financial discretion was sharply curtailed with a Justice Department decree barring the application of a surplus in one estimate item to another item. The creation of the distinct Accountant of Penitentiaries position in 1879 further strengthened central financial supervision in the decade of the 1870s.

Later changes with respect to penitentiary finances followed the thrust of earlier evolution. At least as early as 1883 all Kingston penitentiary accounts were regularly sent to Ottawa for examination before payment. In 1886 the payment procedure for government work performed in penitentiaries was altered. Instead of directly reimbursing the institution which had done the work, as had formerly been the practice, the amount due was to be placed to the credit of "Penitentiary Revenue" with the Finance Department. The expenses which a penitentiary incurred in fulfilling a government contract were henceforth to be paid in Ottawa. The approval of headquarters was required before a warden could make any special purchases. Central direction was so exacting by 1891 that Warden Lavell of Kingston Penitentiary felt compelled in that year to submit a formal request in the minor matter of the replacement of a flag. In 1896 Inspector Douglas Stewart limited the customary expenditure on Christmas extras to twenty cents per convict in a striking example of the detailed superintendence of penitentiary finance practised by that time.
The procurement of penitentiary supplies was a major administrative task in the nineteenth century penal system. Developments in this area reflected the themes evident in staff arrangements and prison finance. One trend was toward a standardization of practice. In 1876 Inspector Moylan instituted a pattern tender form. Five years later Warden John Creighton, in a further sophistication, devised a uniform tender for each class of items supplied by contract.

The number of items to be furnished to prisons by contract was augmented at different times throughout the period. This was a rational approach to the supply problem. Non-contract items were purchased by the prison storekeeper on the open market in a process enmeshed with patronage considerations. While contracts for supplies did not eliminate the patronage factor, they did introduce the prevailing aim of awarding contracts to the lowest tenderer, and did provide advertising, allowing all interested parties to bid. Contracts removed the authority to name suppliers from a variety of officials at the prison level, centering it ultimately upon the Minister of Justice who could apply the same criteria in all cases.

The evolution of supply arrangements in the late nineteenth century brought a diminution of power at the inspector and warden levels. The authority to determine successful tenderers passed from the Directors to the Minister of Justice with the Board's dissolution in 1875. Evidence indicates that for some years after, the warden exerted
considerable influence upon the outcome of bidding. Generally the recommendations sent in by the warden with the tenders he received were acted upon. At least as early as 1892, however, tenders were submitted directly to the inspector, effectively excluding the warden.

Looking back in 1901 upon achievements in penitentiary administration during his tenure, Inspector Douglas Stewart noted several beneficial departures from former supply contract practices. The Department no longer awarded contracts solely to local persons and no longer let out contracts which encompassed a number of different items. Advertising in a wider area was expected to increase the benefits of competition and to reduce the action of local patronage. Single item contracts led to considerable complaint from Kingston Penitentiary suppliers on the ground that for them such a system was not economical. Whatever the effect, the intention in this case reflected the same values that informed much of the development of penitentiary administration between 1867 and 1899.

Many innovations in late nineteenth century penitentiary operation were intended to reduce the impact of political considerations to the advantage of efficiency and order. General rules for salary increases, the transfer of officers away from local political support and the increased use of contracts for supplies all theoretically tended in that direction. In practice through these years patronage continued to be a prominent factor in staff and supply decisions. At
best political influence was mitigated. In many instances government friends were favoured only when prices were equal. Wardens had a stake in hiring on the basis of competence. Generally, considerations of politics and ability were mixed in a warden's staff decisions. The major development between 1867 and 1899 was the focusing of patronage power on the Minister of Justice, not the elimination of penitentiary patronage itself.

Many administrative procedures were instituted in the late nineteenth century to further efficiency. Some changes were made on an ad hoc basis when other methods were found to be unsatisfactory. Centralization and rationalization, too, inspired administrative developments expected to improve the operation of the system. Some wardens, however, complained of instances of rigidity and delay in prison financial matters as a result of centralized control. Nevertheless, belief in the effective working of centralized control remained firm in the Justice Department, and no effort was made to introduce greater flexibility at the penitentiary level.

The transformation in federal penal administration between Confederation and the turn of the century was a significant phenomenon. Its explanation is multifaceted. At Confederation federal officials with authority in the penal sphere faced the challenge of welding three diverse prisons into a new, unified national system. Those Ottawa-based bureaucrats moved naturally to adopt the bureaucratic values of uniformity and efficiency in the performance of
their task. The increased centralization of power in Ottawa facilitated the rationalization of administration; rationalization in turn furthered centralization in a mutually reinforcing process that gathered momentum as it proceeded. Moreover by the late 1880s and the 1890s the bureaucratic thrust in penitentiary administration was reinforced by a parallel phenomenon in society as a whole.

An American historian, Robert Wiebe, was identified a fundamental shift in values in the United States between 1880 and 1920 "from those of the small town...to those of a new, bureaucratic minded middle class". His analysis has considerable relevance and explanatory power for the administrative evolution of the Canadian prison system in the last decade of the nineteenth century. Wiebe explored the adjustment of a United States of autonomous "island communities" of 1880 to the changes wrought by urbanization, immigration and industrialization. The political, social and intellectual orientations of small-town America were rendered antiquated and inadequate by these national developments in the late nineteenth century. At the core of the Progressive response to the problems of the new America was a rising new middle class of professionals and specialists carrying a bureaucratic approach that incorporated values of "continuity and regularity, functionality and rationality, administration and management". This middle class aimed at the transcendence of local communities and the social organization based upon them. Authority for government was sought, not feared.
The "bureaucratic approach" was instituted to impose a new order upon a twentieth century world. By the last decade of the nineteenth century a new middle class, like that identified by R.H. Wiebe in the United States, was visible in Canada, particularly in the municipal sphere. In Canada, as in the United States, that class was a product of the changes brought by industrialization and urbanization. Inspector Douglas Stewart must be seen as part of that rising Canadian middle class. Stewart served in government as the confidential secretary to Minister of Justice J.S.D. Thompson for years before becoming Inspector in 1895. As Inspector he articulated the bureaucratic and "Progressive" aims of uniformity, business methods, efficiency and standardization in the system, and he introduced measures to further those aims.

By the 1890s the bureaucratic thrust in the administration of the penitentiary system had a counterpart in Canadian society. This parallel development reinforced the established trend toward rationalization and centralization in prison operation. The bureaucratic bias of Inspector Stewart was a striking manifestation of this interaction. Like the members of a number of occupation groups outside the prison, the wardens, too, experienced a growing professional identification in the 1890s. The federal wardens' conventions furthered that process. New professionals were an important component of the bureaucratically-minded middle class rising to prominence at the time. Successive Justice Ministers participated in post-Confederation administrative changes largely because
those changes contributed to the efficient superintendence of the system by the department. Yet, in the last decade of the nineteenth century shared bureaucratic values were almost certainly an additional factor at that level, too.

The bureaucratic impulse inspired many administrative changes in the penal sphere after Confederation. Yet, a number of those measures and others, too, were only partially instituted or were not implemented at all. Supervision and control from Ottawa remained far from total in 1899 despite the prominent trend towards centralization during the previous decades. The localism and uniqueness of the institutions in the system remained forces with which to be reckoned. Nevertheless, a firm administrative groundwork had been laid by the turn of the century, a groundwork that could be built upon in future.

Federal penitentiaries and the way they operated were not the same in 1899 as they had been in 1867. The penal system had expanded significantly in institutional terms since Confederation. The new penitentiaries of the system were well established in their operation by 1899. Through the late nineteenth century the Justice Department strengthened its authority in the penitentiary sphere, virtually eliminating Public Works' jurisdiction at federal prisons in the process. Within the penitentiary service hierarchy, power shifted decisively to the Minister of Justice and his Ottawa staff. Centralization and rationalization marked the evolution of prison administration. These developments signifi-
cantly altered the functioning of penitentiaries, staff and administration through the late nineteenth century. By 1899 the federal penal system had gone far towards its modern pattern of operation.
Chapter Two Footnotes

1 Kingston Penitentiary, St. John Penitentiary, Halifax Penitentiary, and Rockwood Asylum.


4 P.A.O., Blake Papers, General Canadian Political Correspondence, Letterbook 8, E. Blake to D.A. Laird, 19 October, 1876, p. 372.

5 On June 28, 1876, Inspector Moylan was informed that in future the Manitoba Penitentiary would be under his control. It is not clear, however, whether this referred to the new prison under construction at Stony Mountain or the Lower Fort Garry "penitentiary". P.A.C., Department of Justice, A1, File 184.

6 Anderson, "Prisons", p. 212; P.A.O., Blake Papers, General Canadian Political Correspondence, Alexander Morris to E. Blake, 23 November, 1875.

7 P.A.C., Department of Justice, A1, File 1308 1/2.

8 Canada, Sessional Papers 1878, Vol. 9, S.P. No. 12, p. 125.

9 Ibid., pp. 126-127; P.A.C., Department of Justice, A2, File 6, Warden, Manitoba Penitentiary, to Inspector of Penitentiaries, 23 December, 1882.

10 Canada, House of Commons, Debates 1875, p. 990.

11 James George Moylan, a dominant figure in the history of the nineteenth century penal system, had a long and colourful career. He was born in Ireland in 1826. Between 1851 and 1854 he worked in Washington as the correspondent of several journals from the North and the South. In the next two years he was attached to the staff of the New York Daily Times. From 1858 to 1873 Moylan edited and published the Canadian Freeman, an Irish Canadian journal. J.G. Moylan also served as Canadian Commissioner of Emigration in Ireland, 1869-72. In August, 1872, he was appointed to the Board of Directors of Penitentiaries in Canada. In 1873 he became "Secretary Director" and in 1875, when the Board of Directors was dissolved, was appointed to the newly created position of Inspector of Penitentiaries. Moylan served with distinction in this capacity until his retirement in the spring of 1895.
James G. Moylan, as Inspector, was a humane, thoughtful man of his day, consistently proposing improvements and genuinely concerned with the betterment of the system.


15See Chapter One above, p. 5.

16P.A.C., Department of Justice, A2, File 707, Robert Marshall to E. Blake, 30 December, 1876.

17See Chapter One above, pp. 3-4.

18The need for a penitentiary geographically located to serve Prince Edward Island as well as New Brunswick and Nova Scotia, was a major reason advanced by Prime Minister Mackenzie in the Commons for the required appropriation. Canada, House of Commons, Debates 1875, p. 472.


21In Parliament in 1888 it was noted that both the Regina and Prince Albert Jails would be inspected that year. Canada, House of Commons, Debates 1888, p. 1024.

22Canada, Sessional Papers 1897, Vol. 12, S.P. no. 18, p. 8. This source notes that the provisions of the Penitentiary Act did not apply to the Regina Jail. It can be assumed that the Act did not apply to the Prince Albert Jail either.


24Canada, Statutes 1868, Chap. 75, Sec. 72.

25Dr. John R. Dickson was appointed physician to the Provincial Penitentiary in March, 1862. In 1868 he succeeded Dr. Litchfield as Medical Superintendent of Rockwood Asylum, retaining his surgeon position at the penitentiary as well. In 1872 Dr. Michael Lavelle succeeded him at the penitentiary. Dr. Dickson then devoted himself full time to Rockwood.
Dr. Dickson was personally resentful of Rockwood's administrative subordination to Kingston Penitentiary. He repeatedly criticized the Directors, too, for slowness in making changes he desired. These were almost certainly factors in Dr. Dickson's consistent advocacy of an Ontario takeover of Rockwood. They did not apparently weigh in the government's decision, however, particularly as the administrative separation of Rockwood and Kingston Penitentiary had been effected by an 1885 statute.

The government may have also considered that as an asylum, albeit one for the criminally insane, Rockwood would more logically fit within provincial jurisdiction. As early as 1870 Sir John A. Macdonald privately agreed with Sandfield Macdonald that the best plan with respect to Rockwood was to sell it to Ontario and to pay for the maintenance of criminal lunatics confined there. The sale was actually undertaken by a federal Liberal administration. P.A.C., Macdonald Papers, Letterbook 14, J.A. Macdonald to Sandfield Macdonald, 29 November, 1870, pp. 581 - 584.


Ibid., p. xxviii.

Ibid., p. xxxi.


By 1900 the construction of a further wing at St. Vincent de Paul was once again seen as an urgent necessity and additional cell space was required at British Columbia Penitentiary. Canada, Sessional Papers 1901, Vol. 12, S.P. no. 34, pp. 7, 21.


In 1891 Warden Lavell of Kingston Penitentiary ordered that institution's first typewriter as a small part of the modernization process.

Neither female convicts nor insane convicts were invariably sent from the other prisons to Kingston Penitentiary. The policy with respect to these prisoners fluctuated.

Sir Wilfrid Laurier recognized the primacy of Kingston Penitentiary in 1899 when introducing a staff salary bill with
amounts varying according to each institution's importance in the system. Canada, House of Commons, Debates 1892, p. 8763.

51 Canada, Statutes 1880, Chap. 6, sec. 2.

52 Samuel L. Bedson was Acting Warden of the penitentiary at Lower Fort Garry from 1870. He continued in office as Warden of the penitentiary at Stony Mountain from its opening in 1877 until February, 1891. Bedson came to the Northwest with the regular forces in 1870. Undoubtedly this military background aided him in keeping order in the prison. During the Northwest rebellion of 1885 Warden Bedson organized transport for the North West Field Force as Chief of Transport. The Manitoba Penitentiary Warden was an active man. In 1882 he received permission to act as Manitoba Jails Inspector in addition to his regular duties. In 1887 Warden Bedson reported on the condition of the Regina and Prince Albert Jails for the Department of Justice. As a disciplinarian Bedson was strict. As J.G. Moylan commented in his 1880-1 Annual Report:

The discipline is as near perfection as it could well be, and excites the admiration of every visitor. Though the Warden, while not being a martinet, is exceedingly strict in exacting rigid obedience to rule, yet, he deals justly and kindly with his officers and the convicts. I heard no well-founded complaint from either class.


53 P.A.C., Department of Justice, Vol. 27, File 1-18-6, Paper Read by Warden Irvine to the Wardens' Convention Held at Kingston, January, 1901; Canada, Sessional Papers 1886, Vol. 11, S.P. no. 18, p. 31.

54 Canada, Statutes 1868, Chap. 75, sections 3, 34; Canada, Statutes 1875, Chap. 44, sections 38, 39. The 1875 Penitentiary Act first gave the Minister of Justice the right to make certain appointments on his own. The relationship between the Directors and the Department of Justice is examined below in this chapter.

55 Canada, Statutes 1868, Chap. 75, section 48; Canada, Statutes 1875, Chap. 44, section 52; Canada, Revised Statutes 1906, Chap. 147, section 29. The 1906 Penitentiary Act for the first time failed to specify that the bonds be filed with the Secretary of State. The Minister of Justice apparently handled them after that.

56 The 1875 Penitentiary Act specified that a letter from the Secretary of State was sufficient authority for the warden to commute a death sentence. Later statutes prescribed a letter from the Under Secretary of State as sufficient. Canada, Statutes 1875, Chap. 44, section 25.


Canada, Statutes 1875, Chap. 44, sec. 60.

Canada, Sessional Papers 1879, Vol. 8, S.P. no. 27, pp. 15 - 16. Inspector Moylan was not unremittingly critical of the Public Works Department. In 1884, for example, the Inspector commended that department for the way it had met penitentiary requirements through the previous year.

Canada, Sessional Papers 1885, Vol. 8, S.P. no. 15, p. v.


Ibid., Moylan at St. Vincent de Paul Penitentiary, 30 June, 1890, p. 480.


Dr. Michael Lavell was appointed surgeon at Kingston Penitentiary in 1872. Dr. Lavell was "unexpectedly offered" the Kingston Penitentiary wardenship a few hours after Warden John Creighton's death in 1885. He accepted and served as warden until his retirement in 1896. After a year as warden, Dr. Lavell claimed that he made it a practice to check occasionally into all prison matters in detail. In fact, although he did a competent job, he did not work the abnormal number of hours that his predecessor Warden Creighton had. Prison work became a tradition Dr. Lavell's family. One of his sons, Alfred E. Lavell, had a distinguished twentieth century career in the Ontario Prison service.

C.S.C., Kingston Penitentiary, Warden's Letterbook, March 1, 1884 - March 9, 1887, Lavell to Moylan, 6 November, 1886, pp. 862 - 866.

C.S.C., Penitentiary Inspector's Minute Book, 1885 - 1894, Moylan at Regina Jail, 19 September, 1888, p. 301.

A general dislike of the theoretical was evident in Warden Creighton's 1878 criticism of a request from headquarters for further statistics:

I think it is possible to have too many books and to require too many useless statistics to be kept. . . .

A great many of the questions propounded on the seven sheets of statistical tables which have been sent here, can only be interesting at some Prison Congress which generally comprises a gathering of theoretical essay writers. . . . The statistics referred to are of no practical benefit, and are seldom looked at by the public.

C.S.C., Kingston Penitentiary, Warden's Letterbook, 1876 - 1879, Creighton to Moylan, 16 December, 1878, pp. 779 - 780.


Canada, Sessional Papers 1886, Vol. 11, S.P. no. 15, p.xii.

Rules and Regulations, 1888, sec. 211.


Thomas has claimed that containment is the primary function of the penitentiary. Ibid., pp. 1 - 9, 41.

A letter written by Kingston Penitentiary warden M. Lavell to Inspector-Stewart in 1895 illustrates well the distinctive uniforms and the military orientation of the penitentiary service at the time:

The Warden’s Uniform is quite elaborate. I think, Persian Lamb mitts or gauntlets and trimmed overcoat would be in keeping... Should not the clerical staffs be given a different grade of uniform than that issued to officers of Industrial rank...

The Chief Keeper, who is also to be drill instructor, I think is worthy a better cap to what the Guards wear...

The uniforms proposed are in advance of anything I have seen in U.S. Prisons. Certainly a more dressy appearance of the staff, with the result of drilling will have a good effect on all concerned...

By the terms of the 1875 Act the minister of Justice could appoint the following officers: the schoolmaster, schoolmistress, storekeeper, steward, chief keeper, matron, deputy matron and trade instructors.

Apparently such disciplinary dismissals were not numerous. In a period of one year between 1898 and 1899, for example, the following disciplinary penalties were inflicted on guards and keepers at Kingston Penitentiary: 3 fines ranging from 50¢ to $1—levied for lateness coming to work; one suspension from duty for one month for lack of alertness during an escape; and three dismissals—one for sleeping at the post.


Rules and Regulations, 1888, sec. 96.

As J.E. Thomas points out, part of the reason for the intensive staff supervision was a desire to prevent the abuses of power to which the military form of staff organization might readily lead.


Rules and Regulations, 1888, sec. 266; Penitentiary Regulations, 1892, sec. 129.

Rules and Regulations, 1888, sec. 211.


C.S.C., Kingston Penitentiary, Warden’s Letterbook, October 16, 1863 - May 18, 1869, AE. Macdonell to Board of Directors, 21 May, 1867.
Riches and Regulations, 1888, sec. 206.

Canada, House of Commons, Debates 1892, p. 738.


In 1875, for example, Warden Bedson of Manitoba Penitentiary noted that "nearly all my turnkeys and guards, like myself, have served in Her Majesty's Regular Forces". Canada, Sessional Papers 1876, Vol. 7, S.P. no. 14, p. 140.

Statistics issued in 1901 on Canada's building trades, for example, show that average working seasons for ordinary labourers in that industry varied between six and twelve months. Canada, The Labour Gazette II, 1 (July, 1901) pp. 50 - 52.

P.A.C., Department of Justice, A3, R. Laflamme, 19 October, 1877, pp. 90 - 91.


P.A.C., Department of Justice, A1, File 128; ibid., File 587.


C.S.C., Penitentiary Inspector's Minute Book, 1885 - 1894, Moylan at Kingston Penitentiary, 30 November, 1893, p. 647. At that time, however, the appropriation had not been acted upon.


Canada, Sessional Papers 1876, Vol. 7, S.P. no. 14, p. 84.

Canada, Sessional Papers 1891, Vol. 12, S.P. no. 12, p. 130.

Canada, Sessional Papers 1897, Vol. 12, S.P. no. 18, pp. 46 - 47.
C.S.C., Kingston Penitentiary, Warden's Letterbook, 1867 - 1870; Macdonell to Langton, 30 June, 1868, p. 98.
C.S.C., Kingston Penitentiary, Warden's Letterbook, 1881 - 1884, Creighton to A. Campbell, 6 February, 1882, p. 896.
Canada, Sessional Papers 1874, Vol. 6; S.P. no. 42, p. 100.

For example, in 1882 E.J. Adams was appointed to assist his father, James Adams, Kingston Penitentiary's Chief Trade Instructor. E.J. Adams succeeded to that position in 1896. In 1869 H.H. Horsey succeeded his father, Edward Horsey, as Architect of Dominion Penitentiaries. In 1878 Warden Creighton moved to appoint the son of the recently deceased Baker, John Coward, to the father's position.

C.S.C., Kingston Penitentiary, Warden's Letterbook, June 25, 1892 - September 26, 1893, Lavell to Moylan, 12 August, 1892, p. 75.

Penitentiary Regulations, 1892, sec. 3.

In 1878 Warden Creighton hired the son of a deceased Baker, John Coward, because "his employment will be a great help to the family (sic)--now consisting of Mr. Coward's widow and four sons--two of whom are small".

John Quinton, Warden of St. John Penitentiary, described in 1869 a negative aspect of the Guard's job in winter:

Guards much exposed on their stands have hitherto suffered severely during the extreme cold of winter. A small stove has been put in the box on each stand to afford them some relief at such times.

Canada, Sessional Papers 1870, Vol. 2; S.P. no. 5, p. 46.


136 Some officers continued to give tobacco to convicts when that item was banned in the late nineteenth century. Different explanations of that action are possible. It is likely that sympathy for the inmates affected, was a factor.

137 The Board of Inspectors of Asylums, Prisons and Public Charities of the Province of Canada continued its activities through Confederation until it was replaced by the Board of Directors in 1868. The three Directors appointed in 1868, James M. Ferres, Terence J. O'Neill and Fr. Zep. Tassé, had all been members of the previous board at the time of its dissolution. On May 20, 1869 J.M. Ferres became warden of Kingston Penitentiary. Early in 1870 he died. T.J. O'Neill was Chairman of the Board in 1870. By 1871 Fr. Zep. Tassé was no longer on the Board, although he was to become St. Vincent de Paul Penitentiary's first warden. James W. King and F.X. Prieur were Chairman O'Neill's fellow Directors by 1871. With the death of O'Neill in 1872 James G. Moylan was appointed to the Board. The Board of Directors maintained that composition, with J.W. King as Chairman, until it was eliminated in 1875.

138 Little biographical information on Douglas Stewart is available beyond the fact that he served as private secretary to Sir J.S.D. Thompson for a number of years before his appointment as Inspector in 1895.

139 Canada, Statutes 1868, Chap. 75, sec. 8; Canada, Statutes 1875, Chap. 44, sec. 9.

140 For example, see: P.A.C., Department of Justice, A2, File 467, T.J. O'Neill to Col. Bernard, 22 April, 1872.
The Inspector of Pénitentiaries was a part of headquarters' staff, but in the discussion above his position has been considered separately.

See Chapter One above, pp. 26 - 27.

Canada, House of Commons, Debates 1867 - 1868, p. 443.


Canada, Statutes 1868, Chap. 75, sec. 35; Canada, Statutes 1870, Chap. 30, sec. 3; Canada, Statutes 1875, Chap. 44, sec. 39.

Canada, Statutes 1875, Chap. 44, sec. 5.

Ibid., sec. 3.

Both the Directors and the Inspector had the responsibility of framing penitentiary rules and regulations. Both were to audit penitentiary accounts. Both were empowered and required to inquire into irregularities at the prisons of the system. The Inspector's duty of inquiry into penitentiary financial transactions was more limited than the Directors' had been.

For example, the Directors were able to authorize construction of rail or tram lines on penitentiary grounds on their own authority. The Inspector was able to make a similar authorization only subject to the Minister of Justice's approval. This is indicative of the nature of the change.

Canada, House of Commons, Debates 1875, p. 640.

Canada, House of Commons, Debates 1867 - 1868, p. 443.

Canada, Statutes 1868, Chap. 75, sec. 36.

Canada, Statutes 1870, Chap. 30, sec. 3.

Penitentiary Regulations, 1899, sec. 1.

Ibid., sec. 1.

Douglas Stewart, Inspector from 1895, epitomized this relationship when, in a speech to a 1901 Canadian wardens' convention, he outlined the need to impose uniformity and business methods upon an intensely local federal penal system. P.A.C., Department of Justice, Vol. 27, File 1-18-6, Paper Submitted by Inspector Stewart to the Warden's Convention held at Kingston, January, 1901.
Edward Blake, as Minister of Justice in the Mackenzie administration from May 19, 1875 to June 8, 1877, planned the appointment of Assistant Inspectors for the two new western penitentiaries and oversaw 1876 legislation creating those posts. The actual appointments were made by Blake's successor, Rodolphe Laflamme, Minister of Justice from June 8, 1877 to September, 1878. P.A.C., Blake Papers, General Canadian Political Correspondence, Letterbook 10, Blake to R. Laflamme, 11 June, 1877, pp. 450 - 453.

The Manitoba Library Association, Pioneers and Early Citizens of Manitoba (Winnipeg: Peguis Publishers, 1971), p. 150. Gilbert McMicken was a member of the Canadian Legislative Assembly between 1857 and 1861. Later he served as a stipendiary magistrate for Canada West and then Commissioner of Police for the Dominion. In 1871 McMicken was appointed to several federal positions in Manitoba.

In a typical complaint in 1885, Warden A.H. McBride of British Columbia Penitentiary noted that Mr. Moylan had not visited the institution for seven years. Canada, Sessional Papers 1886, Vol. 11, S.P. no. 15, p. 80.

Canada, Statutes 1875, Chap. 42.

Canada, Statutes 1895, Chap. 41, sec. 1.


Ibid., p. xxxi.

Canada, House of Commons, Debates 1887, p. 274.

Canada, Statutes 1887, Chap. 52.

Paper Submitted by Inspector Stewart...January, 1901, p. 4.

Canada, House of Commons, Debates 1887, p. 660.


Canada, Statutes 1895, Chap. 42.

Canada, House of Commons, Debates 1895, p. 4366.

Ibid., p. 4378.

Ibid., p. 4374.

Canada, Senate, Debates 1899, p. 743.

Canada, Statutes 1899, Chap. 48.

Ibid., sec. 2; Canada, Senate, Debates 1899, pp. 363 - 364.


Canada, House of Commons, Debates 1882, p. 781.

Rules and Regulations, 1888, sec. 46.


Mr. Fitzsimmons, formerly Deputy Warden at British Columbia Penitentiary, took up the Deputy Warden position at Manitoba Penitentiary in August, 1895. Manitoba Penitentiary's former Deputy Warden, A.D.O. Macdonell, was transferred to Kingston Penitentiary to take charge of the new Prison of Isolation. Dorchester and Kingston penitentiaries traded Warden's Clerks in 1897. In 1898 St. Vincent de Paul and Kingston exchanged a guard. These were parts of the process.


Canada, House of Commons, Debates 1895, p. 4369.

Rules and Regulations, 1888, sec. 205.

This was included as an amendment in the Rules and Regulations, 1889, (sec. 205). The 1889 rules and regulations were drawn up by Inspector Moylan and approved by Deputy Minister of Justice Sedgewick. Once they were printed the Deputy Minister changed his mind and the 1889 rules were not adopted. This provision in the 1889 regulations is important as an indication of the planned direction of change with respect to staff. P.A.C., Solicitor General's Department, Vol. 134, File 1-21-1, A.B.S. Lane to Newcombe, 17 October, 1899.


These innovations can been seen as part of a general trend in the last two decades of the nineteenth century towards systematic efforts to ensure the general health of the population and, more particularly certain groups within the population. For example, the medical inspection of prison staffs paralleled a movement towards the inspection of school children. See: Neil Sutherland, "To Create a Strong
and Healthy Race"; School Children in the Public Health Movement, 1880 - 1914", History of Education Quarterly XII, 3 (fall, 1972), pp. 304 - 333. Nevertheless, these innovations can also be viewed as manifestations of continuing concern about penitentiary staff fitness. Even the provision of an age maximum of forty for new employees contributed to the fitness goal, given the fact that some physical strength was required to deal with the convicts and that a proportion of the staff members at any one time were almost certainly aged and feeble.

Canada, Statutes 1868, Chap. 75, Sec. 8.
Canada, Sessional Papers 1878, Vol. 9, S.P. no. 12, p. 16.
C.S.C., Kingston Penitentiary, Warden's Letterbook, 1884 - March 9, 1887, Lavell to G. Foster, 2 September, 1886, pp. 798 - 799.
P.A.O., Blake Papers, General Canadian Political Correspondence, Moylan to Blake, 22 December, 1876.
See, For examples: C.S.C., Kingston Penitentiary, Warden's Letterbook, November 18, 1896 - June 28, 1897,


The evidence below on this point concerns only Kingston Penitentiary. It is reasonable to assume, however, that the recommendations in respect to supply contracts made by the wardens of the more distant penitentiaries had a similar weight. For examples, see: C.S.C., Kingston Penitentiary, Warden's Letterbook, March 16, 1887 - September 10, 1888, R. Creighton to Ford and Sons, 11 October, 1887, p. 261; ibid., Lavell to Moylan, 27 August, 1887, pp. 201 - 203; ibid., W. Sullivan to J. Richardson and Sons; to MacMohan Bros.; and to Macnee and Minnie, 30 September, 1887, pp. 246 - 247; ibid., Lavell to D. Strange; to J. Richardson and Sons; to B. and S. Anglin; to Ford Brothers; to J. Mackleston; to Macnee and Minnie; to J.S. Henderson; to M. Walsh; to J. Swift; to M. Mallon; and to B.A. Booth; 25 June, 1888, pp. 569 - 574.


Paper submitted by Inspector Stewart...January, 1901, p. 3.


For example, see: C.S.C., Kingston Penitentiary, Warden's Letterbook, March 16, 1887 - September 10, 1888, Lavell to Moylan, 12 May, 1888, pp. 486 - 489.

This varied from warden to warden. Warden J. Creighton was unaffected to fire a highly recommended candidate who worked
out badly in his probationary period. Other wardens were more automatic in their acceptance of political nominees. For example, see: C.S.C., Kingston Penitentiary, Warden's Letterbook, 1873 - 1876, Creighton to J.S. Cartwright, 19 October, 1876.


The information available on Justice Department staff who dealt with penitentiary matters, is limited. After 1875 the Inspector and the Deputy Minister of Justice dealt most directly with penitentiaries. In 1879 an accountant, Geo. L. Foster, was transferred from the Inspector's office to become Accountant of Penitentiaries. Inspector Moylan was given a full time clerk in 1876. By 1888 those dealing with penitentiaries were described as "two officers, an accountant and a third class clerk". By 1895 the Accountant of Penitentiaries had been given an officer, H.B.S. Lane, to assist him.


Ibid., pp. viii, xiii.

Ibid., pp. viii, 112.

Ibid., p. iii.

Ibid., pp. 166, 185, 195.


Paper submitted by Inspector Stewart...January, 1901, p. 2.

Ibid., passim.
CHAPTER 3

THE AIM OF CONVICT REFORMATION I:

THE CRIMINAL CLASS AND THE REFORMATORY INFLUENCES

Late nineteenth century Canadians expected the federal penitentiary system to serve a variety of specific purposes. Punishment was valued as a vehicle of retribution, deterrence and expiation. The fact of confinement contributed to the protection of society. The problem of controlling prisoners within the penitentiary setting received much attention. The reform of convicted criminals was sought in the system as well.

Few people in the nineteenth century believed that convict reformation ought to be the only goal of the imprisonment process. Those interested in the rehabilitation of criminals commonly placed that end on a level of importance with punishment. Within the prison world, itself, many tendencies undercut the reformation of the felon in theory and in practice. Although the aim of prisoner rehabilitation did underpin many of the penal measures introduced into Canada's penitentiaries between 1867 and 1899, it was not always the solitary or even the most compelling motivation for those innovations. Nevertheless, the reformation aim did play a significant role in determining what the features of the system would be.
Each of the goals of the penitentiary system was shaped in part by an underlying reality of class inequality. Yet, the influence of that inequality is most apparent in late nineteenth century efforts to reform the convict. The rehabilitation endeavour was class-directed in that it was aimed at prisoners drawn disproportionately from the labouring class. Within the penitentiary the convicted criminal was regularly exposed to beneficial or "reformative" influences. These influences were employed to inculcate Victorian habits and values in prisoners who lacked both. This was the essential nature of the reformative process.

The available evidence suggests that the success of rehabilitation measures in the penitentiary was limited. Weaknesses in penal theory may have contributed to that result. Certain penal measures were expected to punish and to reform at the same time, and that expectation may not have been well founded. The low priority given the prison reformative role also helps to explain its unsatisfactory fulfillment. The money and time devoted to convict rehabilitation in the federal system were inadequate.

Several factors explain the restricted attention paid to convict reform within the penitentiary. One facet of the late nineteenth century explanation of crime cast doubt on the possibility of convict reformation. Convicted felons were considered persons responsible for their actions; as such they were open to reform. At the same time the concept of a "criminal class", a segment of society spawning criminals,
had wide currency. This concept suggested a socially entrenched criminality that could not be expunged by the prison experience. Growing pessimism in the 1890s about the effectiveness of reformatory measures was reflected in an increased attention paid by penitentiary authorities to the problem of the repeated offender. This pessimism helped to ensure that the amount of public money spent on exclusively reformatory measures would be limited. Finally, the low status of most prisoners, even prior to conviction, must be taken into account. Those at the bottom of the social structure were confined in contemporary penitentiaries in disproportionate numbers. It can be hypothesized that federal political authorities were not prepared to commit resources on a large scale to the elevation, moral or otherwise, of penitentiary inmates of such low social standing.

Late nineteenth-century opinion on the sources of crime influenced the content of measures adopted to reform the convicted felon. Before a man could be made honest, authorities had to have some idea why he had first turned to crime. Not surprisingly, the methods employed to rehabilitate the convict in the penitentiary setting were in harmony with contemporary wisdom on the cause of the problem. Yet, that contemporary wisdom contained certain discordant elements. Some persons argued that heredity was a cause of crime; that view posed a theoretical challenge to the widely accepted opinion that the criminal was responsible for his acts. The assumption of individual responsibility underpinned the
attempt to redeem the felon in prison. In practice, the convict reformation endeavour reflected those beliefs about criminality which supported an environmental approach to reshaping criminals. Nevertheless, late nineteenth century explanations of crime as a whole cast some doubt upon the probable success of that reformation strategy.

Certain officials within the late nineteenth century penitentiary service were responsible for convict reform. As interested experts within the penal system these authorities played a critical role in determining which reformatory measures would be instituted. Between 1868 and 1875 the three-man Board of Directors actively superintended the federal penal system, in part to the end of convict rehabilitation. After 1875 James G. Moylan, and then, Douglas Stewart served as Inspectors of Penitentiaries. Despite their subordination to the Minister of Justice, these successive Inspectors were the single most important officials in their day influencing the reformatory content of the system. Within the penitentiaries, themselves, a few officers shared a special concern for convict rehabilitation. Wardens were generally interested in this aspect of the prison programme, although they dealt with practical problems in a variety of other areas, too. Chaplains, school masters and trade instructors were staff members with a special reformatory function. These officers, the wardens, and those above, the Directors and then the Inspectors, all pronounced on the causes of crime with the penitentiary situation in mind.
The late nineteenth century explanation of lawlessness was multicausal. Commentators identified a wide range of sources of crime, but these were basically of two types: factors in the social environment and shortcomings in the lawbreaker. Yet despite this dichotomy in specific factors, most explanations of crime were united in the belief that the individual criminal should be held responsible for his acts.

Interested penitentiary authorities condemned many conditions in their day for contributing to lawlessness. The economic situation was one. Scarce employment and low wages in times of financial depression were credited with leading many of the "industrial class" astray. Cities received their share of blame. In large population centres the opportunity to commit crimes was greater, and "vice and wickedness" were prevalent. Many commentators believed that ignorance and "want of education" were productive of wrong doing. Prison chaplains frequently cited a lack of acquaintance with religion as the reason why many men were behind bars. Alcohol, too, was regularly denounced as a source of lawlessness. Intoxicating drink was typically credited with inciting unfortunate "to the most criminal satisfactions"—"madden[ing] those who use them" and driving men irresistibly to the commission of evil deeds. Social reformers stressed the decline of family stability as a significant environmental cause of crime in the late nineteenth century urban, industrial context. However, this was not an active concern of those interested in reforming prisoners within the penitentiary.
Many observers were convinced that the migration of "undesirable" foreign elements to Canada swelled the ranks of Canadian criminals. In 1867, for example, the Canadian Board of Penitentiary Inspectors blamed a growing prison population upon a "mass of ruffians" from the United States, who arrived "utterly without occupation" at the conclusion of the Civil War. Twenty years later Warden McBride of British Columbia Penitentiary attributed a decline in the numbers of prisoners at his institution to the departure of "loose characters" who had helped build the C.F.R. McBride felt that Chinese immigration was also a source of crime. Another preoccupation for some Canadian prison officials were youths from the penal and pauper institutions of England. John Allan, a Protestant Chaplain at St. Vincent de Paul Penitentiary, condemned this class of newcomer in 1887 as a probable addition to Canada's prison population, an addition so debased as to be likely to further degrade those who were already confined. James G. Moylan stirred up a minor controversy as Inspector in 1893 when he charged in his annual report that graduates of Dr. Barnardo's child rescue homes in Britain were making a disproportionate contribution to crime in Canada. Inspector Stewart, Moylan's successor, expressed a similar concern in 1897.

Other late-nineteenth century explanations of lawlessness identified the character of the criminal as the central problem. A common refrain blamed the entry of many men into crime squarely upon their inability to resist temptation. A
spectrum of personal failings encompassing sloth, "strong passions", self will, selfishness, self indulgence and "sensual habits", was identified as a key to criminality. In essence, the felon was a man who had proved unable to keep his impulses in check.

Superficially, late nineteenth century opinion appears to have been divided between individual shortcomings and environmental influences as causes of crime. Beneath this surface conflict, views on criminality were united by a widely shared contemporary belief in individual responsibility. Alcohol, hard times, ignorance and lack of religious training were regarded as temptations or difficulties encountered in leading an honest life. Circumstances and disadvantages could help explain the start of many a criminal career and might mitigate condemnation in some quarters but they could not remove individual responsibility. An 1890 review in The Bystander summed up this relationship:

Criminals in the main are simply people who give way to temptations which other people resist. Their progress in crime is usually slow which shows that they set out like other people with a moral sense over which their evil passions or propensities are by degrees allowed to prevail. Education and circumstance of course make an enormous difference and must in the eye of God indefinitely diminish guilt but even the pupils of Pagin know that they are doing what the community condemns.

The assumptions that underlay the penitentiary system are evidence of a practical consensus in that sphere on the personal responsibility of criminals. The very idea of meting out punishment for wrongdoing assumed individual
responsibility. Attempts to reform the convict were based on the same premise. Within the penitentiary the convict was to be led to proper values, habits, and conduct through rewards and punishment posited on his nature as a rational being able to make his own choices. The legal system as a whole rested on the belief that the lawbreaker should be held accountable for his acts. Penitentiary assumptions in this area were in harmony with a long juridical tradition.

Outside the prison in the 1890s middle class reformers increasingly stressed environmental elements as the source of social problems. In the urban setting the limitations on free choice were most evident. Temperance crusaders, for example, could readily recognize the hold that alcohol might have on one of its victims. Some prohibition advocates argued that alcoholism was a sickness. Through the late nineteenth century certain penal reform enthusiasts also employed a "crime as disease" analogy. In general, however, lawlessness was likened to disease in order to justify demands for an indefinite sentence time in which the reformative power of prison discipline might take effect. This was not a disavowal of criminal responsibility. It reflected, instead, a belief that the prison experience could lead to convict reformation if it was a long-term experience.

There was one important exception to the non-literal thrust of the "crime as disease" analogy. From the late 1880s certain penal theorists and reformers did identify "moral insanity" as one cause of lawlessness. It was argued that
the absence of moral values which characterized this condition removed responsibility from the individual involved. There is no evidence, however, that such a definition of insanity influenced the way prisoners were treated in the penitentiary setting.

The notion that heredity contributed to criminality was advanced by some theorists outside the penitentiary system in the late nineteenth century. This view did not necessarily imply a rigid predetermination that the children of the "criminal class" would be dishonest. It was often held that it was a "tendency to crime" that was inherited. Nevertheless, the influence of heredity had ramifications for the convict reformation effort. If heredity led inexorably to lawbreaking, the assumption of criminal responsibility would have been undermined. Even if heredity meant only a propensity to crime, the reformation task would have been made more difficult.

There is no evidence that federal prison authorities ever squarely faced the theoretical challenge which heredity as a factor in criminality posed to their efforts. The personal accountability of criminals was an essential working assumption if penitentiaries were to perform the tasks expected of them. At the same time the heredity factor, to the extent it was accepted, created a tension within the contemporary explanation of criminality. Any influence of heredity reduced the usefulness of efforts inside and outside the penitentiary to control deviance through manipulation of the environment. In practice, those who actively sought to deal with crime stressed its environmental causes.
In explaining lawlessness, late nineteenth century Canadians took into account who criminals were as well as why they broke the law. The two aspects were united within the contemporary conviction that "criminality was largely a lower class phenomenon." Convicts were grouped together in the public mind within the concept of a "criminal class". Sometimes this term was used to refer to hardened or habitual criminals; other usage extended it to denote the bulk of those guilty of crime. Beyond this, "criminal class" meant a portion of the population at large, a portion composed of lawbreakers and their dependents. It has been argued that by the 1870s this social "criminal class" was distinguished in popular perceptions from the "independent and industrious classes" composing society. Yet, in connotation at least, the lines between the "criminal class" and the labouring class of which it was a part, were blurred. Such a blurring was evident among the middle class reformers who focussed on the urban working class in the last two decades of the nineteenth century in their efforts to deal with contemporary social problems. The environment of the children of the poor was not unreasonably identified as a central source of new criminals. In 1894, for example, J.J. Kelso, a leading figure in the child-saving movement, urged Canadians to:

consider the case of the child born of drunken and degraded parents, growing up in a hot-bed of vice; hearing nothing but profanity and obscenity; learning nothing of the difference between right and wrong; no prayer whispered over its cradle; no pure thoughts of a better life instilled into its budding mind; its playground the street... These are the ranks of the criminal classes supplemented...
The "criminal class", like crime itself, was deemed a labouring class manifestation.

The "criminal class" concept lent a suggestion of permanence to the phenomenon of criminality. While individual felons might be reformed, the "criminal class" as a whole would not, by definition, be easily eradicated. That class was seen to be largely a product of the corrupting urban environment in which increasing numbers of the poor lived in the late nineteenth century. In the context of the urban reform action to eliminate a wide range of social problems in the late nineteenth century, the efforts to redeem the convict inside the prison were clearly limited in scope. The "criminal class" concept cast doubt upon the likelihood that prison reformation measures would do much in themselves to reduce the social problem of crime.

The "criminal class" idea implied that most felons were produced by a gradual socialization into the ways of lawlessness. During the last two decades of the nineteenth century, penal authorities and prison reformers increasingly differentiated among criminals by the extent of their progress along the path of crime. The basic dichotomy was between first offenders and hardened felons. This two-sided perception supported the differential treatment of first offenders and recidivists in the penitentiary in the 1890s. In that decade, however, certain commentators distinguished further among types of criminals. The morally insane were one of a number of varieties of felons identified by 1900.
The increasing recognition of different categories of lawbreakers in the 1880s and 1890s may have represented the beginning of a departure from the "criminal class" concept. Yet, through the late nineteenth century the perception of a "criminal class" was widely shared; certainly, faith in the labouring class nature of crime and criminals remained strong. However, the "criminal class" idea stressed the common features of offenders; the recognition of individual differences was an alternate view of criminals that was gaining ground by the end of the century. In the late nineteenth century the two approaches were compatible. The distinction between first offenders and habitual criminals was a useful one to make within the "criminal class" perspective. By the early twentieth century, however, the increased identification of criminal differences tended to render the "criminal class" concept obsolete.

Penitentiary officials felt that most inmates shared common characteristics as members of the "criminal class". Reformative measures in prison were geared to this type of prisoner. The traits recognized as those of the typical convict were the traits shared by those at the bottom of the class structure. Penitentiary prisoners were drawn disproportionately from the most disadvantaged segment of the labouring class grouping. In practice and theory, the convict improvement effort was directed toward a working class inmate population.

Contemporary prison authorities noted attributes common to most convicts. These observations are one indication of the nature of the "criminal class". Surgeons at the different
penitentiaries found that many prisoners were broken down in health, the result, they assumed, of "vicious habits" or "dissipation." John R. Dickson, Medical Superintendent of Rockwood Asylum, pictured "low, brutal instinct" as the dominant character trait of the criminal. At St. Vincent de Paul in 1879, Warden Duchesneau noted that most of his charges were labourers "without any trade or occupation." Similarly, in 1897, Inspector Stewart described a "striking feature" of the convict population as "the undue proportion of those who have not had the advantage of training in any trade or profession." Many convicts had "lost all proper sense of cleanliness" according to one Kingston Penitentiary surgeon in 1880. John Creighton, warden at the same prison, claimed in 1882 that "a large proportion of the criminal classes are defective in intellect and incompetent to make any great effort to obtain an honest living."

A few prisoners were singled out by officials as not belonging to the "criminal class." The remarks made about these select convicts suggest the qualities that those unfortunates within the "criminal class" did not share. One convict not of the common type was an insane youth, Frederick C. White, confined at Kingston Penitentiary. The warden of that institution expressed his regret at seeing,

A boy of his education and refinement (for he has a fair share of both)—confined amongst a lot of the lowest type of Criminal Lunatics. I suggested to his Father, that, probably he might obtain his son's pardon and that he should in that case remove the boy to an Asylum of a better class than this.
Men of refinement were presumed to suffer more from the humiliation of penitentiary confinement than other prisoners. As Warden John Creighton of Kingston Penitentiary noted about one such prisoner:

He has been one of the most exemplary convicts in the Prison, and to a man of his refinement and intelligence one year's imprisonment is a much greater punishment than two would be to most men...

The warden wrote in a similar vein about another convict named Joly who had "already undergone most severe punishment here to a man of his intellectual culture and refinement". Clearly, the punishment inflicted at Kingston Penitentiary was not generally intended for men of Joly's station or attainments.

A comparison of Canadian census data from 1870 - 1901, with the corresponding penitentiary returns, confirms the impressions about the convict class gained from contemporary commentary. (See Appendix B) Occupation, nationality and education have been selected for examination as categories closely related to popular views on crime and criminals in the late nineteenth century. Problems connected with the quality, quantity and types of data available limit the conclusions that can be drawn from this comparison, and findings must, therefore, be treated as indicative rather than conclusive. Penitentiary and census data have been compared for those years in which censuses were actually conducted. Census results presumably presented the truest picture of the Canadian population for those years. Despite its
limitations this statistical comparison does contribute to a
clearer picture of Canada's late nineteenth century convict
populations.

The most striking feature of those penitentiary popu-
lations was the overrepresentation of the unskilled worker
relative to his numbers in the larger Canadian society. Such
men were classified as "labourers" by prison authorities.
There seems little reason to doubt that the "labourer" cate-
gory in census returns referred also to those without skills.
A more serious question that might affect this finding con-
cerns the thoroughness of the census. Were the poor, the un-
skilled, and the transient fully enumerated? Even if the
answer is no, as it probably is, the gulf between the large
proportion of labourers in the prison population and the much
reduced place they held in the population as a whole, is so
great that there can be no doubt about the discrepancy be-
tween the two. The figures suggest, as well, that a number
of skilled groups—shoemakers, carpenters, tailors, painters
and clerks—were proportionally more numerous in prison than
in society. This was not true in every case, however. More-
over, the difference in proportions in the case of these
occupations is much smaller and less convincing than was the
situation for the labourers. Farmers were one group consist-
tently underrepresented in the prison population. The vir-
tual absence in the penitentiary of persons from those occu-
pation groups on a higher social and economic plane—the
banker, businessman, manufacturer, merchant and professional—
is as noteworthy as labourer overrepresentation. Serious difficulties attend the task of assigning categories of status or class to occupations in any historical period. Yet, even without that differentiation the general finding of labouring class overrepresentation in late nineteenth century penitentiaries is bolstered by these indications of occupation distribution.

The nationality or birthplaces of convicts can be compared with the corresponding attributes of the population as a whole only with reservation. One difficulty resides in the fact that many of the prison statistics in this area were listed under "country" or "nationality", while the census returns, save that of 1901, employed the "birthplace" category. Although the evidence suggests that the prison denominators were deemed equivalent to "where born", it is not possible to be certain. Nevertheless, faith within bounds can be placed in the results of a comparison in this area.

One persistent finding is that the Canadian born were proportionally underrepresented among federal prisoners. In contrast several nationalities, most notably Americans and the Irish, were generally overrepresented in federal penitentiaries. A far greater proportion of Chinese were confined in British Columbia Penitentiary in 1880-1 and 1890-1 than their numbers in the Pacific province might seem to have warranted. Yet, by 1901, surprisingly, a smaller percentage of Chinese were imprisoned than proportionately resided in British Columbia.
Data on the literacy of convicts in the late nineteenth century is limited. Statistics on literacy were most complete for the 1891 census year. These returns show that the literacy level of the non-convict population generally was higher than that of the penitentiary inmates. Moreover, the prison figures include all convicts in confinement at the end of the fiscal year rather than just those received during the previous twelve months. Undoubtedly many of the inmates covered by the statistics had been exposed to the prison school during a lengthy imprisonment and had benefitted from it. The relative illiteracy of the prisoners upon entering the penitentiary may have been greater than the figures suggest.

This statistical comparison reinforces the observations made by late nineteenth century prison authorities on the "criminal class." Those who pronounced on the causes of crime adopted the natural course of scrutinizing convicted criminals with an eye to their defects and reasoning from effect to cause. Given the preponderance of labouring class convicts in contemporary prisons, the result of this approach was the identification of labouring class traits as causes of crime.

A striking example of this process can be found in an 1893 pamphlet, Crime in Canada, a Monograph, written by a contemporary Dominion statistician, George Johnson. On the basis of statistics on all those convicted of criminal offences in Canada between 1884 and 1891, Johnson presented a number of observations on the nature of the criminal population. Significantly, Johnson found the foreign born to be
overrepresented among the convicted. He noted that an increasing proportion of Canada's criminal population were illiterate. Johnson concluded that labourers contributed more than their share to every class of crime. The explanations of criminality presented in Crime in Canada were in accord with contemporary wisdom. The native born population was identified as "less criminal in its tendencies than the foreign born". Education was lauded as an influence that reduced lawlessness. Hard times were seen as a cause of crime among labourers. Johnson not unreasonably explained the origins of crime in the light of what his statistics told him of the "criminal class".

Penitentiary officials also expounded on the causes of crime on the basis of their knowledge and beliefs about common convict characteristics. Much of the "criminal class" was unskilled and apparently lacked both education and strict religious upbringing. All these shortcomings were part of the contemporary explanation of lawlessness. Those from China, the United States, Ireland, and often England, were overrepresented in the prison population. Immigrants from these lands, particularly those who were unskilled, were viewed as serious additions to the crime problem. Some of the convict class were mentally deficient and many enjoyed alcohol. These factors, too, were considered part of the story. The unskilled who comprised so much of the prison population, suffered most in times of financial depression and were popularly believed to be forced into stealing by hard times. Generally the convicts of the federal penal system were at the bottom
of the social and economic pyramid even before conviction. The federal penitentiaries were part of a system effectively functioning to confine, punish, deter and reform a particular segment of society. Measures to reform were devised to deal with prisoners drawn largely from the labouring class. More specifically, reformative attempts were aimed at eliminating those lower class characteristics identified by those in authority as causes of crime.

The late-nineteenth century attempt to reform the felon was in harmony with contemporary explanations of crime. The importance of environment to the genesis of crime and to its eradication, was fully recognized. The creation of a carefully planned penitentiary environment was a central thrust of inmate rehabilitation strategy. The reform effort was posited on individual freedom of choice. Such individual responsibility was an ingredient of late nineteenth century opinion on criminality. Finally, the attempt to rehabilitate the convict was class-directed, in keeping with the "criminal class" concept and the fact of labouring class overrepresentation within the prison.

On the surface two distinct varieties of convict improvement were sought in the penitentiary system. The first and most favoured was moral reformation. This implied a new idea of right and wrong for the convict and a determination to adhere to it. The influence of religion was the main tool employed to work such a deep change. As one prison Inspector explained in 1881, religion was "most potent in its action.
upon the human heart and life. If a convict could be brought "to the foot of the cross in true penitence" his moral reformation would be assured. A second type of rehabilitation involved a more limited improvement in convict conduct. In the penitentiary environment the prisoner was isolated from the outside world with incentives and penalties to encourage hard labour and good behaviour. It was hoped that industry and proper deportment would become habits in the convict who learned to practise each in prison. Both of these varieties of reformation were united by the common end of giving prisoners approved values and habits. Such virtues as self-restraint, sobriety, hard work, cleanliness, regularity and self-improvement were pressed forward in most measures of convict rehabilitation. Moral reformation and the changes produced by prison discipline were parts of a single process.

Convict life in prison was regulated by reformatory prison discipline. This was that system of convict management employing punishment and progressive privileges to move inmates through stages of improved conduct. Through the term of the sentence, however, the convict was regularly exposed to the influence of other reformatory agencies designed to give him values and habits which he lacked. These latter reformatory influences worked in conjunction with the disciplinary system as instruments of reform. As a key part of the attempt to transform the convict these reformatory influences deserve examination in depth.
The chaplain was the central agent of moral improvement within the penitentiary. His paramount goal was to bring those under his charge to a strong religious commitment. This by its nature ensured every other aspect of reform. A deeply religious prisoner was one who had learned piety, humility, self-restraint and submission to authority, as well as the differences between right and wrong. Such an inmate would be receptive to strictures on other aspects of life and conduct. Lesser degrees of rehabilitation were valued by chaplains, as well. The limited amendment of a felon could be important, asserted one chaplin in 1892, as "a very effective step to a fuller conversion". Chaplains laboured to provide moral instruction to previously untutored convicts. Even if untouched by religious inspiration, the prisoner might at least be led to abandon his ways of crime through such teaching. Criminality was equated with a lack of moral values; the chaplain had a critical role to perform in attempting to remedy that situation.

Convicts had little choice about their exposure to religion; they were required to register as Catholic or Protestant at the start of confinement and were compelled to attend the services of their chosen faiths. With few exceptions penitentiary chaplains were Anglican and Roman Catholic. A chaplain of each faith served at every penitentiary.

The religious ministrations provided by the chaplin depended upon his zeal and the size of the convict population at his prison. For example, while the Protestant Chaplain at
the largest institution of the system, Kingston Penitentiary, was hard pressed to perform all his duties in the late 1860s, several of his counterparts at smaller institutions fulfilled their obligations with two services a week. Nevertheless, the late nineteenth century saw a general expansion of the strictly religious role of the chaplain. Before 1895 prison services were a part time labour for many chaplains. In 1895 all federal penitentiary chaplains were restricted by statute to their prison work and were paid accordingly.

Penitentiary chaplains undertook many activities to make the influence of religion effective among their charges. Some instituted voluntary Bible classes. Catechism and confirmation classes were held for Catholics. Roman Catholic and Protestant chaplains alike successfully introduced choirs and music into their regularly held religious services. Some spiritual advisors moved beyond their officially defined duties in writing letters for prisoners and speaking to prison authorities on behalf of deserving inmates. Certain Catholic chaplains, in particular, even viewed the appearance of the prison chapel as a weapon in the struggle for convict souls. Fine stained glass windows and a well furnished chapel were believed to provide escape for the convict from the drabness of everyday prison life. This, it was hoped, would make religious services appealing.

The impact of religion in the penitentiary was a difficult thing to gauge. Chaplains frequently pointed to convict attentiveness and piety as proof of beneficial results. This
was reasonable. After all, improved conduct was expected to flow from religious influence. Chaplains cited a range of convict qualities in this vein, qualities such as docility, readiness to accept religious instruction, good disposition, devout demeanor, "decorum", "general good conduct", "obedience at work", "desire to learn and improve", "order", "quiet behaviour", "reverence in church", and "cleanliness". Some chaplains described their work in statistical terms in an effort to obtain more certainty. Success in this case was judged by numbers of communicants, baptisms and visitations. Certain prisoners testified to their reform. A few discharged convicts corresponded with their former spiritual mentors, but, generally, as C.E. Cartwright, one Protestant Chaplain at Kingston Penitentiary complained, "those who return to honest life comparatively rarely communicate with any of the authorities of the prison, and it is only by accident that we hear of their well doing."

Some chaplains who participated in the reformation effort harboured doubts about their own effectiveness. They, like C.E. Cartwright, may have seized upon the few reports of discharged convicts doing well as "cheering among so much that is disappointing". Most chaplains, however, were content to judge their success by the conduct and professions of the convicts within the prison walls. Moral reformation, by its very nature as an internal, personal process, was always very difficult to judge. From the perspective of the present day no firmer judgements than those of the chaplains, themselves.
can be made. The efforts of the chaplain bore an uncertain fruit.

The chaplain exercised considerable control over another reformatory influence, the prison library. Some officials expected extravagantly beneficial results from the reading of books. "The society of a good book," one chaplain contended, "is almost as elevating to the convict as the society of its author would be." Another commentator proclaimed the significance of "intellectual culture" to "forming and governing the heart" and praised good books as the way to that culture. Books were to provide the felon with moral lessons that would guide him in future. More realistically, the veteran prison Inspector, James G. Moylan, noted with satisfaction that time spent reading might otherwise "be passed in brooding over fancied injuries or meditating upon schemes of illegitimate import."

Much of the reformatory impact of the library depended on the quality of its books. As the officer primarily responsible for choosing library works the chaplain was fully alive to the importance of his selections. Books with a moral lesson were favoured, while those of a "frivolous character" were generally shunned. However, the prisoners sought "amusement rather than instruction" in their reading, much to the disgust of their spiritual advisors. Convict reading preferences prompted the growth of general libraries in federal prisons in the late nineteenth century, at the expense of the strictly religious book collections. Under
these circumstances the exposure of prisoners to the moral precepts of the better literature was limited. Even books of fiction could further convict education or provide an alternative to debauchery on release. Nevertheless, such light reading would contribute little to moral or religious reformation.

Many observers cited ignorance as a source of crime. In this context the penitentiary school was a logical reformatory tool. It was expected to produce a variety of good results. The instruction of convicts in the consequences of wrongdoing was considered salutary because it would arouse dread for judicial punishment. One chaplain felt that education, like the library, would give the prisoner new sources of amusement making him "less likely to loiter round [sic] taverns and come in the way of temptation". At least one surgeon asserted a link between education and physical well being. The "lack of education which generally obtains among the criminal class", he argued, was accompanied by "a depraved condition of health". The chaplain at British Columbia penitentiary in the late 1880s stressed the importance of the English language instruction of Chinese and Indian inmates incarcerated in that institution. He contended that it was essential that those prisoners be able to speak English if efforts at their improvement were to be made.

Education was linked closely to morality in the nineteenth century. Those officials who directed the penitentiary system in the period expected that school instruction, in combination with the library and religious influences, would "give a proper tone and direction to the minds of the prisoners."
rudimentary education would enable the convict to read the Bible and other religious works. Basic literacy would facilitate the prisoner's instruction in moral truths. Through most of the period chaplains superintended the operation of the prison schools. This reflected the contemporary belief that education should stress morality. In theory education could contribute significantly to convict reformation.

An early action of the post-Confederation penitentiary Board of Directors was to institute school instruction at those prisons where it was not already established. Through the remainder of the nineteenth century the number of hours a week devoted to schooling varied among the different institutions of the system. As a rule well-behaved convicts were permitted to attend school at noon. Morning and afternoon instruction, where available, was only offered to convicts who could be spared from their labour. A night school was inaugurated at St. John Penitentiary in the late 1870s, but this was apparently unique. By the 1880s, however, it was customary in federal penitentiaries to allow well-behaved convicts advanced in instruction to use slates and books in their cells at night.

Penitentiary schools were intended to provide the mere rudiments of an education. Correspondingly, the schoolmaster's attention was centred on the sizeable number of inmates who were illiterate or semi-literate. Some of the penitentiary schools were restricted to that class of prisoners.

With few exceptions reading, writing and arithmetic were the
only subjects taught. Although those who progressed beyond the basics inculcated in the classroom were allowed to study further in their cells at night, this was a minor facet of the educational effort. The main thrust of prison schooling was to give the least educated "a start in the right direction".

The benefits that the penitentiary classroom could provide were sharply limited by its framework of operation and purpose. At the National Prison Association Congress held in Toronto in September, 1887, an American participant, Charles Nordhoff, criticized the school instruction at New York's Elmira Reformatory for educating youths to employment above their station. No one would have levelled a similar charge against the intent or reality of Canadian penitentiary schools. Prison instruction was expected to contribute to convict reform, but the modicum of education offered was not designed to make felons honest by helping them to a higher social or economic status. Inmate participation in the prison school was dependent upon extreme educational need and good behaviour. These criteria eliminated many potential students from the start.

The way that prison education was implemented undercut its theoretical reformatory role. Inadequate resources and insufficient instruction time hampered the operation of the late nineteenth century penitentiary school. The vastness of the educational task facing the schoolmaster caused some officials to despair. In 1867 Kingston Penitentiary's Protestant Chaplain remarked on the "appalling ignorance and stolidity of the dwellers in this prison house." "The mission of the
school is a most important one", he contended, "but it never
has and it never can under the existing arrangements even in
the tenth degree, accomplish its purpose". Lack of proper
accommodation was one shortcoming common to most federal peni-
tentiary schools in this period. The situation at British
Columbia Penitentiary in the mid-1880s where the school room
was shared with the shaving gang on Fridays and Saturdays,
was extreme but not atypical in this regard.

A sore point with those anxious for the success of pri-
son education was its subordination to penitentiary industry.
The importance of convict labour meant that only nooydays or
evenings were practical times for the instruction of the maj-
ority of the inmate pupils. John A. Gray, a school master at
Dorchester Penitentiary, noted in 1892 that a number of men
working some distance from the prison had no opportunity to
attend even the noonday school. The same problem existed
at St. Vincent de Paul. In 1895 Inspector Stewart, in
contrast to Gray's concern, voiced his explicit opposition to
the convening of school classes during working hours. The
prisoners, he felt, had been sentenced to physical labour rather
than study. His opinion reflected existing priorities.

Despite the handicaps hampering the operation of prison
schools, some officials claimed success for them. Students
were often reported as "attentive" and anxious for instruction.
Indian and Chinese prisoners at British Columbia Penitentiary
stood out as particularly eager to learn. While some obser-
vers noted that school attendance was not what it should have
been, in part because of a lack of interest among those most in need of instruction, it is likely that many prisoners did gain basic schooling. On the other hand, the success of the prison school as an instrument of moral reform is less clear. The general effectiveness of the school was limited because certain other prison activities took priority. There is no evidence that the school proved to be a notably effective reformative influence under those conditions.

Trade instruction was another facet of the convict’s prison education in the late nineteenth century. Undoubtedly many officials considered trade instruction more appropriate for the “criminal class” than formal schooling. In 1868 the trade instructor position was created in the penitentiary system. The training provided by this officer was intended to render the prisoner “fitter to obtain an honest livelihood on his discharge”. Yet, at the operating penitentiaries in the late nineteenth century the teaching of industrial skills was a distinctly minor concern; its fulfilment fell far short of what was desired in theory.

Wardens were often hard pressed to find sufficient work to keep all their charges occupied. Consequently, some prisoners were denied work training through a lack of employment. The established industries at each prison determined which trades would be taught to those convicts who were employed. However, the desire that the prisoners learn useful skills was at best a minor influence on the selection of works to be established in the penitentiary. As a result,
those skills which were learned were not always of value
to the convict. At Kingston Penitentiary, where there was a
variety of shops, a number of trades could be mastered. Else-
where the possibilities were fewer. Throughout the system,
too, many prisoners were employed on maintenance and make-work
chores that demanded little skill and provided no training
of note.

The needs of each penitentiary largely determined those
trades that were taught. In 1872, for example, thirty six
French Canadian convicts at Kingston Penitentiary were trans-
ferred to the stone shops on the order of the Board of Direc-
tors. The object was to give these men stone cutting skills
that would be useful in the building and alteration of St.
Vincent de Paul Penitentiary to which they were later to be
transferred. In a similar vein, Warden John Creighton com-
mented in 1880 that he would ensure that two long-term pri-
soners were taught the milling trade before the existing con-
vict miller was discharged. The specific provision of
training that would be of benefit to the individual convict
received scant consideration.

In addition, the teaching of skills was only one part of
the trade instructor's job. Other duties sharply restricted
the time he could devote to trade instruction. In essence
the trade instructor was a continuation of the pre-Confederation
overseer, with an expanded role. His primary task was the
direction of work in his department. In addition to imparting
work skills, the trade instructor was required to superintend
convict workers, report on convict conduct and industry, ensure the most economical use of material and advance ideas to further economy or efficiency. This range of duties was sometimes beyond the capacity of one officer, particularly if he was also obliged to ensure that convicts did not escape, as was sometimes the case. Trade instruction was bound to suffer under these circumstances.

To what extent did convicts learn work skills? While some positive claims were made, there is also evidence of noteworthy lapses. British Columbia Penitentiary statistics for the 1878-9 fiscal year reveal that not one prisoner discharged that year had been taught a trade. In 1892, A.H. McBride, Warden of that prison, complained of a continuing problem since its opening of finding competent, reliable trade instructors at the salary that could be offered. The nature of prison work meant that only a portion of the convict population at each penitentiary was able to gain useful training. Feeble-mindedness, age or lack of inclination to learn rendered a number of inmates incapable of benefitting from instruction. The usefulness of the skills which some prisoners did obtain, depended upon the trade involved. The experience gained making binder twine at Kingston Penitentiary, for example, was of little value to the discharged convict. The warden there observed that, "on quitting prison the convict who has learned the management of a jenny or a baller will be likely to find himself vanquished by the army of boys and girls employed in outside factories." Many convicts
undoubtedly learned skills, if only because some knowledge was required for the operation of prison industries. The nature, extent and demands of those industries were the controlling factors in the teaching of trades. Trade instruction as a reformatory tool carried more weight in rhetoric than, in reality in the nineteenth century penal system because other concerns within the penitentiary took priority.

Convicts were required by statute to perform "hard labour" in confinement. This regular work was in itself valued as a reformatory influence by prison authorities. Joseph U. Leclerc, a zealous long-time Catholic chaplain at St. Vincent de Paul, echoed a widespread belief when he declared in one annual report that idleness was a major cause of crime and that the convict must "cultivate a liking for labour". The attempts made by prisoners to evade work merely confirmed the opinion of prison authorities that members of the "criminal class" shared an active aversion to toil. Coercion and incentives were applied to ensure convict labour. These were framed on the premise that the inmates would not willingly work.

A long-time hope for the penitentiary was that regular labour in the prison setting would instill "habits of industry" in the felon. These "industrial habits" were expected to further reformation by fitting the prisoner for an honest life as a working man on release. Inspector James G. Moylan, for one, placed prison employment above the prison school in usefulness. Most convict, he felt, would soon forget their schooling, but habits of industry would remain. Prison
labour was expected to accustom the convict to honest toil and to improve his character. Through repeated labour in confinement the inmate was to learn the "habits of order and regularity" which he lacked. The failure to accept the necessity of work set the criminal apart from the honest citizen. Once he became resigned to work the felon had progressed far towards complete rehabilitation. It was anticipated that the enforcement of routine labour in the penitentiary would produce this significant reformatory result.

Practical considerations at operating penitentiaries in the period undercut whatever reformatory influence prison labour might, in theory, have exerted. Often regular work was not available for the prisoners. Many convicts, through lack of ability or lack of other industry, were placed at mindless tasks, such as stone breaking, that could not be expected to prompt a liking for work. Quite the opposite result was much more probable. Some convicts did seek to avoid work, generally through feigned illness. Undoubtedly some were successful. Clearly only a portion of the prisoners, at best, were exposed to continued, useful industrial labour while in confinement.

More critically, the effectiveness of prison labour as a reformatory force depended upon one dubious assumption. It was expected that the regular performance of prescribed activities in the prison setting would lead the prisoner to take up the values they embodied as his own. The hope was that after release the former convict
would follow the conduct to which he had become accustomed in prison. There was, in fact, little evidence that the inmates were gaining a work ethic in penitentiaries of the day. John Creighton of Kingston Penitentiary said much about the nature of convict motivation in 1880 when he observed that, "as a rule most of them perform a fair day's labour, and occasionally, if there is a necessity for it, they will work just as faithfully as men employed at free labour outside". In retrospect it appears improbable at best that prisoners could have been led to accept habits of industry by work they performed under compulsion. Reinforcing this conclusion is the fact that hard labour was also intended as a punishment for the "criminal class" presumed to be repelled by toil. It was unlikely, to say the least, that an activity sufficiently repugnant to constitute a punishment would be voluntarily accepted by a man forced to undertake it.

The penitentiary rules and regulations served as a further reformative instrument. Their force, too, depended in part on the assumption that repeated behaviour could be habit forming. The prison rules were framed to create a climate in which religion, the library, the school, trade instruction, and regular labour might have a reformative effect. In addition, however, these rules established a model of good behaviour reflecting the ideals held by those in authority. Once an accused felon was convicted he lost all civil rights. In the penitentiary the convict was "like clay in the hands of a potter". The rules and regulations were to reshape him.
A prominent thrust of the regulations was towards the development of convict self-restraint. The conduct of prisoners was hemmed in by restrictions; prison life was regulated by a rarely varying weekly routine. The rule of silence forbade all talking save to an officer on a work-related matter. This was symbolic of the external constraint in the system expected to foster self-restraint in the felon. The aim was to overcome the criminal "passions" of the prisoner in the hope that they would prove "lastingly conquered".

The rules and regulations required convicts to learn respect for authority and to give evidence of that respect when approaching penitentiary officers. A premium was placed on neatness and cleanliness. Each prisoner was ordered to maintain his person, clothing and cell in tidiness. Inmates were enjoined to be economical and to avoid wasting materials at work. Life in prison was regulated by bells; each activity in the day occurred at a fixed time. Regularity and order were the ideals set before the convicts in the prison routine.

Taken together, prison discipline, religion, the library, education, trade instruction, and prison labour formed an important part of the late nineteenth century response to the challenge posed by the "criminal class". Within a larger framework of penal arrangements, reformative influences were to give the prisoners those Victorian values and habits they were felt to lack."
The success of this convict rehabilitation effort is difficult to gauge. One indication is provided by contemporary statistics on convict recidivism. \( \text{See Table 3 - 1.} \) These statistics are incomplete. They suffer, too, from serious late nineteenth century shortcomings in the identification of individual criminals and in the exchange of records. Because of these deficiencies, contemporary recidivism statistics undoubtedly understated the numbers of repeated offenders. Consequently, the official figures should be taken as minimums. In that light, the percentages suggest a serious recidivism problem. Moreover, the relative constancy in the proportions of repeaters confined annually between 1870 and 1899, despite specific fluctuations, is a commentary on the effectiveness of the rehabilitation methods that were employed. There was no dramatic decline in recidivism at any point in time when new reformative methods were instituted. The repeated offender was a phenomenon that could not be eliminated. Penitentiary officials increasingly complained of the recidivist problem through the 1880s and 1890s. In this area at least, attempts at convict reform had failed.

The subjective evidence of prison officials, and the statistics on convict characteristics, indicate that some agencies of improvement were more effective than others. The prison schools, for example, apparently furthered convict literacy although their contribution to moral reform is less certain. It is doubtful, too, that many convicts gained a work ethic through hard labour. The chaplains were the most prominent
### Table 3 - 1

**Recriminations in the Canadian Penitentiary System, 1870 - 1889.**

**Institution and Annual Recriminations as Percentages of Convicts Received Annually**

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<tr>
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<th>Dorchester</th>
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<tr>
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* figures not available

**Note:** Recrimination statistics were not available for St. John Penitentiary.

The 1876 percentages cover a six-month period ending June 31, 1876. The succeeding percentages pertain to twelve-month periods beginning on July 1 in one calendar year and ending on June 30 in the next.
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Sources: Reports of the Directors of Penitentiaries, 1870 - 1875; Reports of the Minister of Justice as to Penitentiaries, 1878 - 1899.
agents of the uplifting process. Their reports indicate that progress in reforming prisoners was far from striking. If the success of the convict reformation endeavour was less than was expected, part of the difficulty may have stemmed from its theory. The strategy employed in the prison was the common one of seeking to shape behaviour by positive and negative reinforcements. Yet, some of the reformatory influences served several possibly conflicting purposes. For example, the "strict rules" in confinement and "the obligation to do stated work at the bidding of others" were valued for their contributions to penitentiary punishment. At the same time it was expected that convicts would accept the need to labour and the value of order in their own lives as a result of these harsh requirements. Such expectations may well have been unrealistically high.

The nature of the attempt to reclaim the convict contributed to the further practical problem of determining when a convict was reformed. Chaplains, school masters and other interested penitentiary officials judged rehabilitation on the basis of prisoner professions and behaviour. The reformation process, however, was ultimately an internal one, and by its very nature, was difficult to measure. It is no wonder that prison authorities turned to quantification—the enumeration of books read, services held, conduct marks earned, and the like—and hoped for the best.

Another factor helps explain the fact that reformation efforts were not as effective as many officials would have
liked. Certain other penitentiary functions took precedence over convict reform. Punishment was always primary. The performance of labour of financial benefit to a penitentiary was also often considered more important than inmate rehabilitation by those with final authority over the prison. The resources of time and money applied to the task of convict improvement were inadequate. Officials with a reformative role were commonly pressed with work beyond their ability to perform it effectively. Yet, they were given little aid.

Certain of those authorities in the penitentiary service with an interest in convict reform, most notably the wardens and the Inspector, had responsibility for other areas of penitentiary operations as well. Two considerations most probably reduced the enthusiasm of these authorities for the reformation effort. First, the concept of a "criminal class" steeped in the ways of lawlessness, raised doubts about the degree of rehabilitation that was possible even in theory. Second, by at least the 1880s the progress of convict reformation in practice seemed disappointing. In the late 1880s James G. Moylan, Inspector of Penitentiaries, repeatedly recommended the harsher treatment of recidivists.

Repeated offenders were proving immune to reformative influences. Within this framework those penitentiary officials with the power to increase the priority given to convict reformation were less likely to exert their authority in that direction. In effect, the punishment and deterrence of lower class crime was the penitentiary's main goal. The rehabilitation
of the convicted felon was in harmony with that paramount function, but rehabilitation was, nevertheless, a subsidiary objective.

As a product of late nineteenth century Canada the federal penitentiary system operated in harmony with the realities of that day. One such reality, the unequal distribution of wealth and power within society, was reflected in the character of the prison as a class-directed institution. The labouring class was overrepresented in the penitentiary, and accordingly, inmates from that class were the focus of the specific convict reformation endeavour. The result was a rehabilitation process that sought to instill Victorian values in members of a subordinate class who were believed to lack them. The reformative influences were central to this attempt to reshape the convicted felon.
Chapter Three Footnotes

1 The detailed and comprehensive examination of late nineteenth century class structure has yet to be undertaken by Canadian historians. One of the most impressive efforts in this direction is a quantitative study of Hamilton, Canada West, in the mid-nineteenth century. This project has been underway for some time at the Ontario Institute for Studies in Education in Toronto. A recent book based on that effort is, M. Katz, The People of Hamilton, Canada West: Family and Class in a Mid-Nineteenth Century City (Cambridge, Mass. and London, England: Harvard University Press, 1975). This provides an in-depth analysis of class structure in Hamilton, but only for the 1851 to 1861 decade. Other more limited monographs and articles have focussed on aspects of the experience of certain groups and classes in late nineteenth century Canada. Women and the working class are two segments of the population that have received this sort of attention. Although the nature of late nineteenth century class structure has not been fully explored, the fact of class inequality in terms of wealth and power, has been well established. Katz' book, The People of Hamilton, Canada West, underlines that conclusion for the 1851-1861 decade. Another study, Terry Copp, The Anatomy of Poverty: The Condition of the Working Class in Montreal 1897-1929, The Canadian Social History Series (Toronto: McClelland and Stewart, 1974), has painted a detailed picture of working class poverty in Montreal at the turn of the century. Herbert Brown Ames, The City below the Hill, The Social History of Canada (1897; reprint ed., Toronto and Buffalo: University of Toronto Press, 1972), focuses on that same disadvantaged class in Montreal. Greg Kealey, ed., Canada Investigates Industrialism, The Social History of Canada (Toronto and Buffalo: University of Toronto Press, 1973), also adds to the portrait of class inequality. Gustavus Myers, A History of Canadian Wealth (Chicago: 1914; reprint ed., Toronto: James Lewis and Samuel Limited, 1972) provides interesting information on the accumulation of large fortunes in late nineteenth century Canada. A number of more limited studies have also recognized an unequal distribution of wealth and power within post-Confederation Canada. That basic fact has been well established.

2 The Prison of Isolation at Kingston Penitentiary was one prominent manifestation of this concern.

3 One of the largest projects of a distinctly reformatory character planned within the late nineteenth century penal system was the construction of a Dominion Reformatory for young male offenders. Throughout the four year episode of this proposal the federal government displayed limited enthusiasm for the project. (See Chapter Four below.) No large scale project involving considerable expense directed to a primarily reformative purpose, was undertaken within the late nineteenth century prison system.
One student of this subject has identified a transition to a multi-causal explanation of crime in central Canada in the 1860s and 1870s. This was a departure from earlier stress on intemperance as the major source of crime. Susan Elizabeth Houston, "The Impetus to Reform: "Urban Crime, Poverty and Ignorance in Ontario 1850 - 1875" (Ph.D. dissertation, University of Toronto, 1974), pp. 33 - 34.


In general, as P.F.W. Rutherford has noted, late nineteenth century Canadians were sensitive to the impact that the immigrant could have upon the nature of Canadian society. R.F.W. Rutherford, "The New Nationality, 1864 - 1897: A Study in the National Aims and Ideas of English Canada in the Late Nineteenth Century" (Ph. D. Dissertation, University of Toronto, 1973), pp. 411 - 417.


Canada, Sessional Papers 1888, Vol. 11, S.P. no. 11, p. 45. Central Canadian newspapers, too, sounded warnings
about the threat to society posed by British pauper immigration. Rutherford, "New nationality", pp. 412 - 414. Another authority sees such concern as evident in the 1870s. Houston, "Impetus", p. 36.

C.S.C., Kingston Penitentiary, Warden's Letterbook, June 25, 1892 - September 26, 1893, Lavell to Moylan, 6 February, 1893, pp. 320 - 324; ibid., Lavell to Moylan, 1 March, 1893, pp. 380 - 384; P.A.C., Thompson Papers, Vol. 176, Charles Tupper to J. Thompson, 31 January, 1890; C.S.C., Kingston Penitentiary, Warden's Letterbook, November 18, 1896 - June 28, 1897, Metcalfe to Stewart, 18 June, 1897, p. 957. In 1866, as a medical student in London Hospital, Thomas John Barnardo was moved to dedicate his life to aiding outcast children. In the years that followed Dr. Barnardo established a chain of homes for that purpose. In 1870 a first party of juveniles from Dr. Barnardo's homes was sent to Canada. Many others were sent after them in later years. John Wesley Bready, a partisan biographer of the doctor, claims that only the cream of the Barnardo children were sent from England. There appears to be no real evidence supporting Inspector Moylan's criticism of those Barnardo children who did come to Canada. See: John Wesley Bready, Doctor Barnardo, Physician, Pioneer, Prophet (London: George Allen and Unwin, 1930).


"The Criminal Class", The Bystander (September, 1890), pp. 396 - 397.

By the end of the nineteenth century the Prisoners' Aid Association was pressing for the scientific treatment of inebriates in asylums. P.A.C., Report of the Prisoners' Aid Association of Canada, 1899 - 1900, pp. 8 - 9.


See, for example, the comments on heredity by a leading British criminologist: Havelock Ellis, The Criminal, Patterson Smith Series in Criminology, Law Enforcement and Social Problems (London: Walter Scott Publishing Company, 1890; reprint ed. Montclair, New Jersey: Patterson Smith, 1973), pp. 102 - 116. His argument was quoted approvingly in the


24 Houston, "Impetus", p. 35.


30 Canada, Sessional Papers 1888 - 1881, Vol. 9, S.P. no. 65, p. 27.


34 Canada, Sessional Papers 1883, Vol. 11, S.P. no. 29, p. 38.


36 C.S.C., Kingston Penitentiary, Warden's Letterbook, 1876 - 1879, Creighton to _____, 5 November, 1877, p. 332.
C.S.C., Kingston Penitentiary, Warden's Letterbook, 1873 - 1876, Creighton to Messrs. Short and Morris, 8 May, 1876.

For an indication of some of the factors limiting the accuracy of late nineteenth century census results, see: Alan A. Brookes, "'Doing the best I can': The Taking of the 1861 New Brunswick Census", Histoire sociale/Social History 9 (May, 1976), pp. 70 - 91.

The following are totals for the system as a whole between 1868 - 1900, of members of the occupation groups of highest standing represented in the prison population: dentists 3, publisher 1, optician 1, notaries 3, lawyers 6, barrister 1, solicitor 1, merchants 20, physicians 14, druggist 7, accountants 15, contractor 1, veterinary surgeons 5, jewellers 7, writer 1, speculator 1, engineers 57, architects 2. (Data is missing for several smaller prisons in part of this period.)

One basic problem lies in ascertaining what various nineteenth century occupation labels denoted in terms of job description. There are many other difficulties, too. By what scale should different occupations be ranked? Is data available for measurement on those dimensions? If status implies a subjective valuation placed on jobs by those of the time, how is this to be measured? For a discussion of some of these difficulties and a look at a possible answer, see: Katz, People of Hamilton, Chapters 2, 3.

By 1901 the proportion of Chinese imprisoned within British Columbia Penitentiary was in decline. A number of explanations can be advanced for this phenomenon. One compelling theory credits a decline in convictions of Chinese to Chinese awareness of their greater vulnerability to stern law enforcement, given their position as a persecuted minority group. In this view, the west coast Chinese soon learned to avoid giving excuse for the imposition of legal sanctions. Indians in Canada, though in a position analogous to that of the Chinese, did not display a similar response. This may suggest another explanation, perhaps one focusing on differences in Chinese and Indian culture or lifestyle. At this stage the reduced proportion of Chinese convicts by 1901 cannot be adequately accounted for, though clearly, speculation is possible.

Several other students of the late nineteenth century period have presented similar conclusions on the nature of the criminal class. See: Houston, "Impetus", p. 84; Jennifer Brown, "Influences Affecting the Treatment of Women Prisoners in Toronto, 1880 to 1890" (M.A. dissertation, Wilfrid Laurier University, 1975), pp. 21 - 25.

George Johnson, Crime in Canada, a Monograph (Ottawa, 1893), pp. 6, 8, 10.
Ibid., pp. 10, 15, 16.

For comments on this measure, see: Canada, *House of Commons, Debates 1895*, p. 4369.

C.E. Cartwright, a long time Protestant chaplain at Kingston Penitentiary, was one who held such classes. Fifty convicts were allowed to attend. Canada, *Sessional Papers 1886*, Vol. 11, S.P. no. 15, p. 19.


One chaplain concluded in 1875 that only a "coming day" could declare what benefits his flock had received.  

Canada, *Sessional Paper* 1888, Vol. 11, S.P. no. 11,
p. 21.

Canada, *Sessional Papers* 1874, Vol. 7, S.P. no. 6,
p. 29.

Ibid.

Canada, *Sessional Papers* 1882, Vol. 7, S.P. no. 12,
p. xvi.

Canada, *Sessional Papers* 1876, Vol. 7, S.P. no. 14,
p. 87.

Canada, *Sessional Papers* 1889, Vol. 11, S.P. no. 12,
p. 9.

Canada, *Sessional Papers* 1886, Vol. 11, S.P. no. 15,
pp. 18 - 19.

Canada, *Sessional Papers* 1901, Vol. 12, S.P. no. 34,
P. 33.

Canada, *Sessional Papers* 1889, Vol. 11, S.P. no. 12,
p. 109.

Canada, *Sessional Papers* 1875, Vol. 8, S.P. no. 87,
p. 2.

In 1898 regulations for the first time made no mention of a role for the chaplain with respect to the prison school.  
Canada, *Sessional Papers* 1868, Vol. 8, S.P. no. 40,
p. 8.  

Canada, *Sessional Papers* 1870, Vol. 3, S.P. no. 5,


Before the establishment of St. Vincent de Paul Penitentiary in 1873, French and English classes were taught at Kingston Penitentiary. After that English and French were taught at St. Vincent de Paul. Oral geography was an additional subject taught at St. Vincent de Paul in 1895-6. In the 1887-8 year the Manitoba Penitentiary schoolmaster reported that one advanced convict was studying algebra and geometry.


Canada, Sessional Papers 1886, Vol. 11, S.P. no. 15, p. 45; C.S.C., Penitentiary Inspector's Minute Book 1885 - 1894, Moylan at St. Vincent de Paul Penitentiary, 29 June, 1887, p. 151; Canada, Sessional Papers 1885, Vol. 8, S.P. no. 15, p. 44.

At Kingston-Penitentiary in part of this period convict labour was hired out by contract, though the actual work was performed in the prison. At several penitentiaries items were made that were sold to the public. In both of these varieties of convict employment profit for the institution was a major concern. See Chapter Six below.


Rules and Regulations, 1870, secs. 176 - 181.


Canada, Sessional Papers 1880, Vol. 8, S.P. no. 17, p. 188.

P.A.C., Thompson Papers, Vol. 152, Moylan to J.S.D. Thompson, 1 April, 1892.

These inmates were not, of course, among those prisoners receiving instruction. See, for examples: Canada, Sessional Papers 1879, Vol. 8, S.P. no. 27, p. 44; Canada, Sessional Papers 1882, Vol. 11, S.P. no. 15, p. 4; Canada, Sessional Papers 1892, Vol. 12, S.P. no. 18, p. 1.


Canada, Statutes 1868, Chapter 75, Sec. 31, ss. 6.

Canada, Sessional Papers 1883, Vol. 11, S.P. no. 29, p. 68.

For examples, see: Canada, Sessional Papers 1875, Vol. 8, S.P. no. 87, p. 11; Canada, Sessional Papers 1876, Vol. 7, S.P. no. 14, pp. 8, 9, 89.


104 See, for example: Rules and Regulations, 1870, sec. 311.

105 Ibid., sec. 307.

106 Ibid., sec. 318.


CHAPTER FOUR

THE AIM OF CONVICT REFORMATION II:
REFORMATORY PRISON DISCIPLINE

The static, reformatory influences were only one portion of the late nineteenth century convict reform endeavour. Other measures were also introduced to shape the duration and nature of the prisoner's exposure to the reformatory influences. One concern of penitentiary authorities was to motivate convicts to cooperation, and a number of devices were instituted to further that goal. Prisoners were classified by conduct to permit a measurement of their progress and to facilitate the distribution of rewards to the deserving. The Justice Department altered the lengths of sentences in the service of reform. Solitary confinement for all incoming inmates was advocated as a rehabilitation measure. In addition, prisoner after care received some limited attention at the end of the century. These innovations were united with reformatory influences in a single system of penal treatment aiming at the redemption of the criminal.

The Canadian Board of Directors drew heavily on the Crofton system. A range of Crofton measures was instituted in Canada during the Board’s tenure. During the inspectorate of the Board’s successor, J.G. Moylan, the influence of the
specific Irish model declined. The Directors had undertaken considerable penal innovation, but from the late 1870s to the end of the century fewer alterations were made in what was by then an established discipline plan. Through the 1880s the Crofton example was still cited by the Inspector. Its importance, however, derived from its place within the broader stream of reformatory prison discipline which encompassed many variants. The theory of reformatory prison discipline influenced the content of the penal system in the 1880s and 1890s. Yet, by the end of the century, that theory, too, had been largely implemented or exhausted.

The reformatory prison discipline approach was distinguished by certain basic features. It was an all-encompassing plan that sought to coordinate each of the disciplinary elements of the prison to the end of reshaping the felon. It was premised on the assumption that outward behaviour was a reliable indication of internal transformation. Reformatory prison discipline prescribed several means of gauging rehabilitation through the measurement of conduct. Mark systems or classification levels, or both, were commonly used. The theory of reformatory prison discipline included the concept of a sentence term related to the prisoner's reformation progress. Incentives and punishments were employed as well to move inmates towards redemption. Through cooperation with prison authorities, convicts could ease the difficult prison conditions which they were required to bear. Harsh treatment was to be applied so that ameliorations would be valued. Punishment
also served to subdue those rebellious spirits who might otherwise not respond to the kindesses which reformatory prison discipline offered.

Reformatory prison discipline not only prescribed a collection of rewards and penalties to shape convict conduct, it also designated the way in which those devices were to be applied. A single disciplinary stream of stages was to be established through which each prisoner would progress. This was a theory that acknowledged few individual differences among prisoners. However, the influence of this approach waned in the 1890s. The way in which reformatory prison discipline measures were applied was altered. In the last decade of the nineteenth century the trend was towards distinctive treatment for different classes of inmates. The adoption of parole in 1899 marked a last implementation of the techniques encompassed by reformatory prison discipline. The selective fashion in which those techniques were already being employed signified the decline of reformatory prison discipline in the federal system even as that discipline plan received a final fulfillment.

Between 1867 and 1899 the goal of convict reformation provided a rationale for a number of new measures in the penitentiary sphere. In general, the motive force for those changes emanated from the penitentiary service and the Department of Justice. Officials in those sectors of the federal bureaucracy constituted a group with special interest and responsibility in the area of penitentiary operation.
Through the late nineteenth century, however, a further interest group emerged. This was the Toronto-based Prisoners' Aid Association. This private society was closely linked with the Ontario prison system. Yet, its effect was felt in the federal arena, too. The Prisoners' Aid Association agitated for parole legislation, to the result that such a law was enacted federally in 1899 and provincially in 1900. Moreover, this prison reform society just failed in the 1890s to force the construction of a federal Dominion Reformatory for youthful offenders. The framework of reformative provisions in place by 1899 owed something to the action of the Prisoners' Aid Association. Nevertheless, the federal penitentiary bureaucracy was mainly responsible for the transformation which had occurred in the penitentiary system by the end of the century.

Although reformatory prison discipline united the rehabilitation measures introduced at Canadian penitentiaries in the late nineteenth century, federal penal authorities were eclectic within that theoretical framework. Prison officials and reformers in the western world as a whole became aware of their common interests in the period. In many cases, they were able to get together at conferences to share experience and ideas. Enoch Cobb Wines, a pre-eminent American prison reform enthusiast, was a prime mover behind the first post-Confederation International Prison Congress convened in London in 1872. Similar international congresses followed it at regular intervals. The inaugural
convention of the National Prison Association in the United States was held in 1870. Following some years in the doldrums after 1873, this association revived in the early 1880s. The 1887 congress of the National Prison Association in Toronto brought American prison reform to Canada in full force. American, British, Irish and European penal ideas were disseminated through writings and the exchange of reports. The English Howard Society "for the Promotion of the Best Methods for treatment and prevention of crime, pauperism etc.", was an active late nineteenth century agent in the spread of British penological wisdom. By the end of the nineteenth century this English organization corresponded regularly with several leading Canadian supporters of prison improvement. James G. Moylan, Inspector of Penitentiaries for much of the nineteenth century, believed that Canada should adopt the best features of prison systems elsewhere. Contemporary North American prison reformers generally shared his conviction. New penal measures were selected on a basis of practicality and suitability. It was possible to choose single features of various penal systems because wide agreement existed on the basic reformatory prison discipline approach.

The period between 1867 and 1899 saw a significant shift in the application of reformatory techniques at Canadian penitentiaries. Reformatory prison discipline was always an amalgam of rewards and coercion. Yet, in theory it prescribed a system which gave every prisoner an equal chance to better
his position through good conduct and hard work. From the
1880s Canadian authorities frequently argued that the reci-
divist should be given additionally punitive treatment.
Kingston Penitentiary's prison of isolation was to provide
automatic solitary imprisonment for repeaters and certain
other classes of offenders. This innovation reflected grow-
ing recognition of the importance of differing degrees of
criminality. It was also the product of a significant pessi-
mism about the possibility of convict reform. Doubts about
the efficacy of rehabilitation measures were evident from
the late 1870s. Those doubts focussed on that class of con-
vert which was so blatantly unredeemed, the recidivist.
Increasingly punitive treatment was accorded the recidivist
as the century wore on. The goal of reformation provided
one justification for that additional severity.

The post-Confederation Board of Directors introduced
many features of reformatory prison discipline into the
federal penitentiary system. These first federal prison
authorities brought about improvements in the system as
conscious agents of humanitarian progress. Prior to the
introduction of Crofton methods, discipline at Canadian
penitentiaries was almost entirely coercive. The Directors
tended to belittle the "dread of punishment" that had long
been the pillar of prison order. Measures were introduced
after Confederation to improve the general standard of pri-
son life; it was hoped that these would have a reformativ
effect. Warden James M. Ferres of Kingston Penitentiary,
a Director prior to his appointment as warden in 1869, was one official who advocated generous treatment to soften, humanize and Christianize the malefactor, making him more susceptible to good impressions. Ferres’ successor as warden, John Creighton, advanced humane treatment as a precondition to the reform of the prisoners. "If a convict’s physical comforts are neglected", Creighton explained, "you cannot convince him that you have any great concern for his moral welfare".

Ferres furthered the "kind treatment" of his convict charges at Kingston Penitentiary in 1869 with one interesting innovation. Finding that there was insufficient clothing to provide a change for each prisoner, he procured more garments and had them stamped with the different convict numbers. This identification ensured that, for the first time, the prisoners would get their own apparel back after the clothes were washed. Ferres hoped that a gain in inmate self-respect would result. In 1871 the Board of Directors ordered further improvements at Kingston Penitentiary. Special care was taken to ensure adequate quality and quantity in rations. Steam cooking apparatus was introduced to provide variety in cooking. Convict clothing and cleanliness became new objects of concern, and all prisoners were allowed the privilege of exercise for one hour on Sundays because it would contribute to their health.
Post-Confederation authorities pictured a sharp contrast between prison life in their day and the harshness of regimes in the past. One contemporary warden described earlier years smugly, but with some accuracy, as a time when the felon was "fed on bad food, clothed with indifferent garments, confined in a dark cell from the time he quits work in the evening until rising time next morning; made to sleep on a hard bed with insufficient covering, and forced to breathe a foul, cold atmosphere." The actual amelioration of convict life after 1867 can easily be exaggerated and earlier efforts unfairly forgotten. From the first days of Provincial Penitentiary operation it was expected that prisoners would be treated with humanity, though that result was not always attained. The Brown Commission of 1848 - 1849 was particularly prominent in its recognition of the importance of kindnesses to the convict reformation process. There can be no doubt, however, that the physical well-being of convicts was an increasingly articulated concern of officials in the post-Confederation period. Living conditions were deplorable at times in Canada's federal penitentiaries and life was spartan, at best, for the prisoner. Yet, the watchwords of wardens in the period, "firmness and kindness", symbolized a humanitarian spirit that gained more acceptance in the system at Confederation. The more humane treatment of prisoners was a logical companion to the Crofton system of discipline, a system expected to secure convict cooperation rather than mere compliance.
The dictates of humanity led to certain improvements in prison conditions, but the Crofton system also called for the introduction of other "kindnesses" that were to be applied selectively as incentives to good behaviour. The Directors condemned the strictly coercive nature of earlier prison discipline. They moved naturally and enthusiastically to supply the rewards prescribed by the Irish plan. The central contribution of the Board of Directors to the shaping of federal penal discipline after Confederation was the introduction of an array of privileges to motivate convicts to better conduct.

All these rewards rested on the assumption that the prisoners were rational persons motivated by self-interest. It was felt that they would eagerly grasp an opportunity to improve their lives in prison. The active cooperation of the prisoner was expected to lead to a deeper reformation than mere obedience could ever foster.

Many privileges were instituted first at Kingston Penitentiary. Good conduct prisoners at Kingston in 1867 were confined in a special cell block with lighting until 9:00 P.M. to allow them the opportunity to read at night. In 1869 the Board of Directors approved the introduction of church music into the Kingston Penitentiary chapels. Choir members were drawn from the "advanced class" of inmates. Initially, in 1869, Sunday exercise was reserved for the best behaved convicts. The rule limiting letter writing to once every three months was also relaxed for those prisoners.
Late in 1869 the boon of reading non-religious books was granted to Kingston Penitentiary's best conducted convicts. At Warden Creighton's suggestion in 1871, small lamps were placed outside the cells of those entitled to read at night. This provided better light than had been supplied before. Similar incentives were instituted in the early 1870s at the federal prisons near Saint John and Halifax. In 1873 well behaved convicts at the recently opened penitentiary at St. Vincent de Paul were also allowed lights at night for reading.

The 1868 Penitentiary Act included several inducements to good behaviour. The most powerful of these incentives was the opportunity to earn a partial remission of sentence through "diligence" at work and the strict observance of prison rules. Through the entire late nineteenth century and well into the twentieth, regulations restricted the right to earn remission to the period following the first six months of confinement. This may have been intended as a step towards the initial penal phase of imprisonment prescribed by the Crofton plan. After six months, however, the convict was able to earn a maximum of five days a month as time off his sentence. Those in hospital were permitted up to two and a half days remission each month for good conduct.

Remission was a compromise between the rigid pronouncements of the sentence system and a flexible length of imprisonment based upon the pace of convict reformation.
Although the decision of the judge still dictated the general term of confinement, imprisonment could now be shortened by consistent manifestations of reform on the prisoner's part. Warden Creighton of Kingston Penitentiary was alone among late nineteenth century federal prison authorities in advocating an extension of remission to the point where a convict could "earn his liberty by his industry and good conduct as soon as possible". Apparently he had in mind a definition of the length of confinement in terms of marks earned, like the task sentences advocated by Captain Macconochie in the 1840s. Creighton's specific suggestion was not followed. Yet, the amount of remission a convict might earn was augmented by the terms of the Penitentiary Act of 1883, partly as a result of Warden Creighton's representations. After he gained specified amounts of remission the felon was enabled by this 1883 legislation to earn further "short time" at a higher rate.

The hopes cherished for remission by the Directors were amply fulfilled. Wardens enthusiastically remarked on the improved convict conduct that followed this innovation. The Directors, themselves, remarked on its good effects. There was bountiful behavioural evidence that remission had, indeed, secured the convict's will to his own reformation.

One of the most interesting incentives introduced by the Board of Directors was the disbursement of money for good conduct and for diligent application to labour. The
Penitentiary Act of 1868 provided deserving discharged prisoners with a bonus of up to twenty dollars in cash, in addition to travelling expenses to the place of sentence.\(^{25}\) This same 1868 statute also allowed the payment of money to convicts for voluntary overtime work.\(^{26}\) Within the framework of these provisions the Directors launched a two-part experiment with cash incentives on July 1, 1871 at Kingston Penitentiary. Board members were confident of success because payments for industry had already proved beneficial in England and Ireland.\(^{27}\)

Part of this experiment affected only those prisoners employed on contract labour. These men were henceforth to be paid for labour which they performed over a required daily amount. This overtime money was to be remitted by the contractor to the warden who deposited it at the bank for the convict's benefit. At the inmate's choice these funds could be paid to friends or family, or remitted to him on his release.\(^{28}\)

A second financial reward was open to convicts employed at tasks not producing revenue, as well as to those prisoners engaged in contract labour. Under this latter gratuity scheme prisoners were able to earn a bonus sum of ten to twenty dollars through good behaviour and industry. These gratuities were intended to spur the inmate to greater diligence at work. They were also designed to enable the convict to aid his family or to build up a nest egg for the financially difficult time he would face after release.\(^{29}\)
In May, 1873, Warden Creighton was requested by J.G. Moylan, then a Director, to report on the results and working of the gratuity experiment at Kingston Penitentiary. Creighton explained how convicts were credited with marks for good conduct and industry in the workplaces. For highest marks a prisoner was allowed fifty cents per month for six months, seventy-five cents a month for the next twelve months, one dollar a month for the following twelve months and $1.50 for each month thereafter. If he did not gain top marks the convict received only what he had earned through contract overtime. At the expiration of the initial two years of the experiment a number of prisoners had gained as much as twenty dollars. Warden Creighton concluded in his report that the system "works admirably". He praised the incentive it provided to industry and proper deportment.

Warden Creighton's favourable report and their own continued faith in the plan prompted the Directors in late 1873 to establish a full-fledged gratuities system applicable to each penitentiary. Yet, one year later Warden Creighton's annual report included surprising criticism of the overtime payment of men in the contract shops. He cited two instances of convicts failing to seek employment on release until they had used up the money they had been paid on quitting the prison. In a private letter to James G. Moylan, the Kingston Penitentiary warden expanded on this argument, telling of convicts who earned large sums in the shops only to squander it in taverns and houses of prostitution within a week after
discharge. Creighton argued that twenty dollars was ample to transport the convict to his destination and to provide two weeks' board. Two weeks, claimed the irate officer, was "quite long enough for any man to be idle". 33

Warden Creighton criticized the gratuity scheme as well as contract overtime. He noted in 1874 that some prisoners who had been at Kingston Penitentiary at the start of the plan were entitled to a twenty-seven dollar gratuity. Gratuity payments of this size, like payment for overtime, would, he felt, be wasted on dissipation and would delay the commencement of honest toil. Moreover, gratuity payments, unlike contract labour overtime, ultimately came from public funds. At the scale of payment established by the Board that sum would escalate yearly. Creighton suggested that gratuity payments be continued to the end of 1874 when the appropriation would be exhausted, and that, thereafter, discharge payments over twenty dollars be restricted to a few, rare cases. 34 Apparently it was the size of incentive payments by 1874 that moved Warden Creighton into opposition to the plan he had earlier approved. The stereotype of a wastral, "criminal class" also contributed to his critical judgement. Under the influence of that stereotype, Creighton readily generalized from a few cases of convict profligacy to the identification of a widespread problem linked to the money incentives.

The gratuity system was scaled down much as Warden Creighton suggested it should be. The elimination of the Board of Directors undoubtedly facilitated the reduction
process. Gratuities were continued to a maximum discharge sum of twenty dollars, with the amount in each case to be determined by the warden. Legislation in force through the remainder of the nineteenth century permitted the recompense of prisoners for voluntary overtime work. This became a dead letter, however, when revenue-producing contract labour was banished from the federal penitentiary system in the 1880s. The small discharge payment allowed in this new situation may have helped the inmate get a start when released, but it did not permit significant aid to the prisoner's family and was surely not a forceful encouragement to industry.

In the early 1890s several prison officials urged that the convicts receive some small part of the value of their labour upon discharge. This proposal was forwarded on the same grounds that the gratuity had been earlier, as an encouragement to inmate industry and frugality, as an aid to the family of the prisoner and as a help to the released convict in beginning an honest life. These recommendations were not implemented. The emasculated remnant of the earlier gratuity plan remained the only fulfillment of convict payment proposals through the rest of the nineteenth century.

The provision of incentives, in general, to convict conduct and industry has persisted as a central facet of the penitentiary system to the present day. The motivational power of rewards quickly impressed itself upon prison authorities of the post-Confederation era. Officials at different levels of the service often sought the extension of these
incentives because of their impact on convict behaviour. In 1883 the Protestant Chaplain at St. Vincent de Paul suggested that prizes could render the school more "attractive" and "profitable" to the convicts, contributing to their "conduct, attendance, application and progress" in school. One year later Warden Laviolette of the same institution reiterated that recommendation to the Inspector. Warden Creighton of Kingston Penitentiary employed extra food rewards to good advantage during his long tenure. His successor, Michael Lavell, on one occasion gave a prisoner a valise on release, for "exceptionally valuable services rendered" during confinement.

In the last years of the nineteenth century a few privileges that had been granted earlier were restricted. The customary issue of chewing tobacco to prisoners was curtailed in keeping with rising criticism of its use in the community at large. Regulations in 1898 forbade the restoration of lost remission and imposed stricter conditions upon those who lost all remission twice. Although neither of these changes indicated a real departure from the system of using rewards, the ban on the restoration of lost remission did reflect one problem that arose over time. In the long term, benefits given originally as privileges often came to be considered as rights by the prisoner population. A tendency developed toward giving incentives as a matter of course and stressing their removal for misconduct, rather than demanding that they be earned through good behaviour. This tendency was
promoted by the difficulty encountered when restricting
rewards to the best behaved inmates. Convict jealousy of
the preferred few, in combination with a realization of the
disciplinary power of incentives on the part of the authorities,
favoured a gradual transition away from privileges for a
minority toward benefits extended to all. Persistent pres-
sures within the system militated toward this metamorphosis
of the Crofton incentives.

There was much more to the Crofton system than its encouragement to good conduct and hard work, however. The Directors sought to implement other aspects of the Irish plan as well. That plan prescribed three stages in the treatment of the convict: an initial penal phase, a second stage of classification levels, and the intermediate prison where inmates would be prepared for their return to society in an environment of relative freedom. The regimen at contemporary Canadian penitentaries was analogous to the middle stage of Crofton discipline. An early effort of the Board of Directors was toward the construction of a penal prison where newly received prisoners could be subjected to the solitary confinement provided in the first stage of the Irish model.

Few parts of the Crofton system exemplified its employment of punitive measures in the service of convict reform as well as did the introductory period of solitary confinement. The Canadian Board of Directors embraced the "necessity of severity" in seeking to reform the felon. The initial solitary imprisonment which the Board proposed was to be shorter
in term than in England or Ireland "but equal to them in moral and religious appliances, and in strictness of discipline; a preparatory step to forming the basis of such punitive training as, in modern experience, is best calculated to improve the convict's mental and industrial aptitude, and make his reform lasting". Stern measures were most necessary for "hardened or intractable" prisoners. Yet, the initial period of solitary confinement was to apply to all incoming convicts. This "intensely penal" stage of imprisonment was to be a low point in convict life from which prisoners could ascend with appropriate conduct. The Board believed that after the initial penal confinement, "the relaxations and indulgences, which follow upon good behaviour and industry, will be appreciated, and efforts will be made to earn them."  

Between 1868 and 1870 concrete steps were taken toward the erection of a penal prison at Kingston Penitentiary. The construction of such an institution was authorized by penitentiary legislation passed in 1868. Later that year, the Minister of Justice requested plans and estimates for a penal prison. In November, 1869, the federal cabinet approved an inquiry into the working of the solitary system at Philadelphia and elsewhere in the United States. A Director and Kingston Penitentiary's warden and architect were charged with the mission. One year later the construction of a penal prison near Kingston Penitentiary received official government approval. It was to be a full blown institution for solitary confinement, with "five wings rotating from a
central rotunda" when fully completed. On a July, 1870 visit, one Director, F.X. Prieur, noted with pleasure that work had begun on one wall of the new prison.

Despite the early promise of progress on the penal prison, its construction was not pursued further during the Board of Directors' tenure. Through 1871 no work was done on the new penal institution because Kingston Penitentiary convict labour was required on more pressing projects elsewhere. Work on the prison was not resumed. The penal prison idea did persist, however, to be fulfilled in an altered form in the 1890s. In the years following the dissolution of the Board of Directors in 1875, the application of initial solitary confinement was increasingly linked to the problem of the recidivist. A prison of isolation was constructed in the last decade of the century largely to provide special punishment for repeated offenders.

The recidivist or habitual criminal was a major focus of the Crofton system. As the epitome of those characteristics demarcating the "criminal class", he was the farthest removed from the values implicit in reformation. Federal officials in Canada were always alive to the need for stern measures to deal with the habitual criminal. If uninitiated prisoners were to be saved, the recidivist had either to be reformed or to be isolated from his fellow inmates. Otherwise, like a virus, he would surely infect the others.

The Crofton system gave hope of reforming the hardened felon. The initial harsh stage of imprisonment was ordered
as the medicine needed to subdue his rebellious will and make him malleable. The convict was to progress at his own pace, and could remain longer than was usual in penal confinement if he did not cooperate. The Board of Directors pressed for a penal prison with the repeated offender uppermost in mind. Though they were surely aware that not all prisoners would change their ways, the Directors sought to implement a reformatory discipline process that would apply alike to all convicts. In the years that followed the dissolution of the Board, the concept of a prison of solitary confinement was kept alive increasingly as a vehicle for the separation of recidivists from other prisoners. The isolation of repeated offenders from more reformable convicts was the chief "classification" sought by prison authorities and reformers in the late nineteenth century. It indicated a growing pessimism, some would say realism, about the degree of effectiveness of reformatory techniques.

In 1877 Inspector James G. Moylan reported in detail on the extent to which the Crofton system had been implemented in Canada. He noted that a great cost would be attendant upon a fuller introduction of Irish methods in this country. Against a background of economic depression, the Inspector opined that perhaps not all aspects of the plan, including separate confinement, were suited to Canadian needs and circumstances. Through the following decade, however, Inspector Moylan reaffirmed his earlier faith in the penal stage of imprisonment of the Crofton system; during the late 1870s
and the 1880s he and several other prison officials urged the construction of penal cells.

The Inspector and other interested officers felt that the need to separate recidivists from novices in crime was pressing. Within that accord there was some difference of opinion concerning the degree of separation and to whom it should apply. Warden Creighton judged the congregate system in its entirety to be ineffective and urged adoption of a separate system of continuous solitary confinement for all prisoners. Generally, however, when federal authorities called for the "separate system" or penal cells they had in mind a limited period of isolation for certain classes of prisoners only. Inspector James G. Moylan favoured a term of solitary confinement for newly received convicts and recidivists, as was the practice in Ireland and England. He suggested in 1887 that prisoners who failed to earn promotion to a higher class level within a certain time might benefit from isolation as well. Other officers urged solitary confinement for the recidivist alone. This reflected the primary target of the penal prison proposal.

In the 1880s Inspector Moylan suggested two possible ways to provide initial solitary imprisonment. Penal cells could be constructed at each prison as the system expanded in response to the pressure of swelling convict populations. Alternately a central penal prison could be constructed at Kingston Penitentiary. The second course was chosen. By 1889 work was "progressing rapidly" at Kingston Penitentiary
on a wing of one hundred and eight cells designed "to isolate the incorrigible characters and newly received convicts". Late in the fall of 1894 the Kingston Penitentiary Prison of Isolation received its first convict inhabitants.

The types of prisoners selected as fit subjects for incarceration in the Prison of Isolation, and those not selected, were both highly significant. A striking omission was the failure to consign every new prisoner to a term in solitary. There is no indication that the application of an initial penal phase to all prisoners was even considered in the early 1890s. By that decade the specific Crofton system provided no direct inspiration to change in the Canadian penitentiary sphere. Yet, British practices were influential and they did include separate confinement for all prisoners in the first part of a sentence. The Canadian emphasis on the recidivist was undoubtedly one reason why the federal government did not imitate the universality of British penal imprisonment. More importantly, the transfer of all incoming convicts to Kingston's penal prison would not have been at all practical in terms of cost and available facilities.

Three classes of convicts were initially subjected to solitary imprisonment in the Prison of Isolation. One group consisted of a handful of refractory inmates sent to Kingston Penitentiary from Dorchester Penitentiary to receive just such punishment. A second number were ill-behaved inmates who had been reduced to the third convict grade through repeated reports. A third group of Kingston Penitentiary
prisoners who had been found guilty of certain "bestial, lustful" crimes such as rape, attempted rape, carnal knowledge of girls under fourteen years of age, and indecent assault were also consigned to separate confinement. In addition, soon after the Prison of Isolation commenced operation, officials began sending prisoners returning to the penitentiary for three or more times, directly into solitary confinement. For a repentant inmate the common term in isolation was six months.

Originally under the Crofton system the prison conditions experienced by each convict were determined by his conduct in confinement. The operation of the Prison of Isolation represented an obvious departure from this. Both the "repeaters" and those guilty of "unnatural" offences were generally very well behaved in prison. Yet, in the 1890s both groups were subjected to special punitive treatment because of their records. Regular reformative prison discipline was still to be applied to most inmates but exceptional measures to deter and isolate were considered more appropriate for select classes of prisoners.

The need for severity in dealing with the hardened criminal had always been one of the ideas clustered around the concept of reformatory prison discipline. Even so, the problem of the repeated offenders cast serious doubt upon reform efforts. Here were men who were in many cases well behaved and who often responded in an ideal fashion to discipline within the prison. Yet, they were clearly not reformed.
In the 1880s and 1890s penal authorities increasingly distinguished between the repeater and the new offender. One result was an increasingly punitive and deterrent approach to confirmed members of the "criminal class." Since the first establishment of penitentiaries, the spectre of the prison as a school for crime troubled those persons concerned with penal matters. There could be no hope of reforming the criminal or even of ensuring that he became no worse if confinement served to steep the prisoner in the ways of lawlessness. The Auburn system had prescribed separate confinement at night and the rule of silence at all times as a prophylaxis to the contaminating interaction of convicts. In post-Confederation Canada federal penal officials freely admitted that while it was desirable to keep the rule of silence on the books, it could not be fully enforced. These authorities viewed the corruption of inexperienced offenders by hardened criminals within the congregate system as one of the most glaring defects in Canadian penitentiary operation. This deplorable situation undermined convict reform measures and swelled the ranks of confirmed criminals.

Within this context the rationale for the Prison of Isolation on the ground of convict reform, is clear. Solitary confinement could offer potent persuasion to the recidivist to mend his ways. Moreover, the Prison of Isolation would keep unrepentent, confirmed criminals physically apart from the impressionable novices in crime who formed part of the
prison population. The aim of convict reformation, then, combined with a dominant punitive sentiment to prompt the Prison of Isolation approach to the recidivist problem.

The Board of Directors originally advocated a penal prison as the fulfillment of the first stage of Crofton discipline. For the Directors existing penitentiaries at Confederation were equivalent to the second phase of that Irish plan. In Ireland this middle stage of discipline comprised four classification levels through which prisoners progressed by earning marks under the headings of discipline, school and industry. Once in the highest or "advanced" class, the convict was employed on special works and kept apart from the others. The gradation of inmates in terms of their progress was intended to give them a clear sense of advancement. Such a differentiation was essential, too, if greater privileges were to be awarded to those who were most deserving.

A scheme of classification similar to that in force in Ireland had been instituted at the Provincial Penitentiary in 1861 by the pre-Confederation Board of Inspectors. At the time of Confederation the Kingston Penitentiary disciplinary stream was comprised of four levels: Probation class, third class, second class, and the first, or "advanced" class. Progression to the indulgences of the first class depended upon good conduct for set periods of time. Badges distinguished those at different stages. In 1869 advanced class inmates were transferred to a separate wing at Kingston
Penitentiary. This was not effected to secure their isolation. Rather, the aim was to furnish these preferred inmates with the privilege of lights at night.

Classification schemes were operated at Federal penitentiaries at different times in the late nineteenth century. In 1874 Warden Robert Donkin of Halifax Penitentiary reported that good conduct stripes were employed at his institution. Warden Bedson of Manitoba Penitentiary noted in 1890 that classification comprising three grades had been applied at his prison since its organization. In 1890 a major stride was taken towards uniform conduct classification throughout the penitentiary system. Three types of clothing indicating convict grades were introduced at each federal prison. The lowest class wore cloth of grey and red check, the middle grade wore grey and black check and the advanced prisoners were clothed in plain grey. At the least this change represented a humane departure from the garish, two-coloured uniforms (the left half had been yellow and the right half, brown) used previously. Although the three-grade classification system was continued through the 1890s, the means of differentiating between convict levels was altered because of the cost of distinctive uniforms. In 1897 Warden Metcalfe of Kingston Penitentiary received instructions to use the third grade cloth for all three classes. First class convicts were to have a white star on the right arm of their uniform; the clothing of second class prisoners was to be marked by a white ring.
Classification by conduct was not an obvious aspect of prison discipline at many Canadian penitentiaries. Such classification was fulfilled through bookkeeping and, in some cases, distinctive uniforms. Generally only the best behaved inmates felt the advantages of a high classification level in the enjoyment of increased privileges. Remission was a vital concern to the prisoners, but remission could be awarded without the existence of classification levels at all. In daily prison life the crucial distinction in the reward system was between the advanced convicts and their fellows. The other gradations had little apparent impact on daily prison life despite their importance in theory.

Classification and its accompanying privileges were intended to influence the quality of the convict's exposure to the beneficial influences of the prison. They were to induce the convict to cooperate in his own betterment. Manipulations of the lengths of sentences also provided this encouragement. Remission was one obvious and potent incentive to good conduct. In addition, the Crofton system called for an early conditional release of advanced class convicts on licenses called tickets-of-leave. Through much of the late nineteenth century in Canada the exercise of executive clemency was the feature of the system most analogous in its effect to this ticket-of-leave, or "parole". The pardoning power was used with considerable consistency to bring the early release of prisoners. (See Table 4-1.) However, in 1899 legislation was passed introducing the ticket-of-leave into the federal penal system. Although
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Note: Figures not available for 1867 and 1868; commencing 1877, year ends June 30.

Sources: Directors of Penitentiaries, Reports, 1866 - 1874; Reports of Minister of Justice as to Penitentiaries, 1875 - 1899.
the British model influenced the form of this innovation, American enthusiasm for parole also had an impact on Canadian authorities contemplating its introduction. In the 1890s the proposal of parole was pressed forward in Canada by the Prisoners' Aid Society based in Toronto. Yet Canadian parole legislation also followed logically from the preceding evolution in federal use of the pardoning power.

At the time of Confederation, and for some years after, convicts were not allowed to petition for pardons on their own behalf. Presumably this rule stemmed from the convict's loss of citizenship rights including the traditional privilege of the subject to petition to the sovereign. This system unfairly favoured those fortunate prisoners who had friends to speak for them. As early as 1873 Warden Creighton and the Board of Directors announced that they would petition on behalf of convicts without spokesmen. Yet, although this practice grew in the period, it did not fully equalize the application process. Well-connected convicts were able to call on influential personages, frequently Members of Parliament, to memorialize for them. A petition with eighty-one signatures was submitted on behalf of one select British Columbia convict. The signatories included one M.P.P., two Justices of the Peace, a mayor and a sheriff. Two hundred dollars was deposited to the credit of a prominent Kingston barrister in 1877 by the wealthy brother of one advantaged prisoner. The money was to be paid when the brother in confinement received a pardon. These extreme cases reflected the general bias of the process.
In all instances of application for the commutation of a sentence a report on the conduct of the prisoner was requested from the warden. Where pardon was sought on the grounds of health, the surgeon's report was required. Convicts in an advanced stage of incurable illness were usually released by executive order. The intent was to allow those doomed prisoners to die in freedom. In other cases a report from the original sentencing authority was sought as well. One factor favourable to the convict was a recommendation for mercy on which the judge did not act. 77 The seriousness of the crime was a potent consideration that often worked against commutation. 78 The Justice Department endeavoured to ensure that each convict sufficiently atoned for his act. Ministers of Justice often specified minimum periods of imprisonment that had to be served before a pardon would be issued. 79 These considerations and, undoubtedly, the influence of the petitioner, figured in the pardon decision. 80

Changes were gradually effected to make the pardon application procedure fairer. In the mid-1880s some convicts were allowed to petition on their own behalf. 81 By 1897 this opportunity was opened to all and standardized blank forms were provided for the purpose. 82 In 1899 Conditional Liberation legislation introduced tickets-of-leave or "parole" into Canada's federal penitentiary system. This statute can be viewed as part of an ongoing rationalization of the commutation procedure.
Under the terms of the 1899 Conditional Liberation Act, the Cabinet and, specifically, the Minister of Justice, determined who would get parole. The same authorities directed executive clemency. The age of the convict, the nature and circumstances of the crime, the probability of relapse, and the character and conduct of the prisoner in confinement were considered in awarding tickets-of-leave. Most, if not all, of these factors had guided earlier decisions on commutations. The intent of the Department of Justice was to limit parole to first offenders except in unusual circumstances.

Nevertheless, tickets-of-leave were open to a large segment of prisoners who formerly had hoped for early release through the pardoning power. From 1899 the number of pardons granted to convicts annually declined markedly, while parole was increasingly employed. (See Table 4-2.) This suggests that the ticket-of-leave replaced the pardoning procedure in many of its earlier applications. In theory at least parole added conditions to premature discharge. Beyond that, the process of release on ticket-of-leave in 1899 differed little from the earlier commutation procedure. Parole had, potential as a reformatory tool employed by penal experts apart from political influence. At the turn of the century it had not taken on that character.

The ticket-of-leave was a natural progression from the federal government's earlier use of its authority to pardon. Yet, parole legislation was introduced in Canada in response to specific pressures, not because of the logic of previous
### Table 4-2

**Parolons Issued and Convicts Paroled**

**JULY 1, 1899 - JUNE 30, 1904**

#### Number of Convicts Pardoned as a Percentage of Total Number of Convicts Discharged

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<td>9.3</td>
<td>8.5</td>
</tr>
<tr>
<td>1904</td>
<td>5.3</td>
<td>3.8</td>
<td>10.1</td>
<td>5.2</td>
<td>8.1</td>
</tr>
</tbody>
</table>

#### Number of Convicts Paroled as a Percentage of Total Number of Convicts Discharged

<table>
<thead>
<tr>
<th>Year and June 30</th>
<th>Kingston</th>
<th>St. Vincent</th>
<th>Dorchester</th>
<th>Manitoba</th>
<th>B.C. Columbia</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>9.9</td>
<td>16.9</td>
<td>19.4</td>
<td>5.3</td>
<td>2.8</td>
</tr>
<tr>
<td>1901</td>
<td>25.1</td>
<td>23.5</td>
<td>19.8</td>
<td>11.8</td>
<td>24.4</td>
</tr>
<tr>
<td>1902</td>
<td>25.1</td>
<td>26.5</td>
<td>28.4</td>
<td>23.4</td>
<td>22.5</td>
</tr>
<tr>
<td>1903</td>
<td>22.8</td>
<td>19.3</td>
<td>34.9</td>
<td>14.4</td>
<td>31.9</td>
</tr>
<tr>
<td>1904</td>
<td>20.7</td>
<td>26.3</td>
<td>37.2</td>
<td>10.3</td>
<td>24.3</td>
</tr>
</tbody>
</table>

**Sources:** Reports of the Minister of Justice as to Penitentiaries, 1900 - 1904.
development. Late nineteenth century proposals of parole were generally linked to the concept of the indeterminate sentence. Both these devices, the indeterminate sentence and parole, were related parts of the theory of reformatory prison discipline.

The focus of reformatory prison discipline was upon the response of the inmate to the penitentiary experience. In theory the ticket-of-leave and the indefinite sentence could provide a term of imprisonment geared to the prisoner's progress in reformation. Parole was to serve as a vehicle of conditional release accompanied by supervision to ensure that the apparently-reformed convict had truly mended his ways. The totally indeterminate sentence was potentially the ultimate incentive to desired behaviour. Under this plan a convict would remain in confinement until conduct, industry, and marks earned indicated he was reformed. Many Canadian prison authorities and penal reformers argued that parole and the indeterminate sentence could allow for the discharge of the inmate at that critical point when he had evidenced a change in his ways but had not yet experienced the embitterment to which needless, excessive confinement often led. The goal of convict reformation provided a compelling rationale for the ticket-of-leave and flexible terms of imprisonment.

Parole was generally linked with the reform of novices in crime. Federal ticket-of-leave legislation in 1899 specified that only first offenders would normally qualify for such early release. That legislation reflected the contemporary
identification of various types of convicts, just as the
Prison of Isolation did. While recidivists were subjected to
increased severity, the more reformable neophytes in crime
gained additional encouragement to mend their ways.

In general, many of those concerned with the redemption
of felons favoured the indefinite sentence. Yet, the British
legal system prescribed fixed sentences for the commission
of crimes. The introduction of flexibility into terms of
confinement was a gradual and never totally complete process
in post-Confederation Canada. The Board of Directors took a
first step with the provision of remission. Yet, although
the ticket-of-leave had been inaugurated in Ireland and
Britain prior to 1867, the members of the Board did not coun-
sel its adoption in Canada. The ticket-of-leave may have
been thought less practical or pressing than other aspects
of the Crofton system. It may also have been among those
features deemed unsuited to Canadian conditions. The reasons
for this omission remain obscure.

In 1885 Inspector Moylan first advocated an experiment
with the indeterminate sentence. Such sentences had worked
well, he claimed, in Belgium and the United States. The
Inspector's advocacy of the indeterminate sentence became
more insistent in the years that followed. Although he drew
upon English, Irish, European and American authorities in
support of his proposal, Moylan was most heavily influenced
in this recommendation by the experience of the United States.
Moylan was additionally moved to urge indeterminate sentences by his concern about the recidivist problem. While he recognized and asserted the possible contribution of the indefinite term to convict rehabilitation, the Inspector embraced the indeterminate sentence in large part because of its punitive effect. In his 1886-7 Report, for example, Moylan detailed at length the evil and corrupting impact of the professional criminal and urged the adoption of the indeterminate sentence because ordinary terms held no terror for that depraved individual. He held up the indeterminate sentence as a possible "means of at least mitigating the evil, which the community suffers, by having a large number of incorrigible criminals let loose every year". The habitual criminal was a major problem for federal authorities. It is not surprising that the punitive and deterrent aspects of the indefinite term were appealing to those officials. The indeterminate sentence always held a punitive potential with its prescription of confinement until reformation was evident. Indeterminate sentences had appeal on several quite different grounds.

Inspector Moylan advanced the parole idea in the same time period, though less frequently. The two measures, parole and the indefinite sentence, were linked by many prison reformers of the day because of their successful operation together at the Elmira Reformatory in New York State. From 1876, Zebulon Brockway, the energetic superintendent of the New York State Reformatory at Elmira, transformed it into
a model institution run on reformatory prison discipline lines. Indeterminate sentences, parole, a grading system, education and industrial training were all employed under Brockway's direction to the end of inmate reformation. The 1887 Toronto Congress of the American National Prison Association made the "grand experiment" with parole and the indeterminate sentence at Elmira well known to most Canadian advocates of penal advance. Inspector Mcylan was not alone in his approval of these devices. Prison reformers in Ontario pressed for their adoption as well.

From the 1880s a private society, the Prisoners' Aid Association of Canada, united Ontario prison reformers in agitation for change in the penal sphere. This organization was born with the inauguration of a Sunday school at the Toronto Jail at the time of Confederation. Its activities expanded in scope and nature to the point where in the early 1880s it was supported by an annual Ontario government grant, ministered to prisoners at several Ontario penal institutions and counted the "prevention of crime" and "prison reform" among its objectives. The convening of the National Prison Association Congress in Toronto in 1887 stimulated the Prisoners' Aid Association in its advocacy of penal improvements. Pressure from the P.A.A. led the Ontario government to appoint a Royal Commission of inquiry into the prison and reformatory system of that province. Among the recommendations of this commission was the suggestion that Ottawa establish a Dominion reformatory with the best features of
the Elmira plan, including the indeterminate sentence and parole release. The Commissioners urged as well that Ottawa transfer to the provinces full power to pardon, parole and otherwise deal with youths in provincial reformatories or industrial schools.

In 1891 the Prisoners' Aid Association convened a prison reform conference in Toronto to promote implementation of the Ontario inquiry's recommendations. The federal Inspector of Penitentiaries, James G. Moynan, was among the delegates who attended. Motions were passed to provide for a deputation to call upon the federal Minister of Justice, Sir John Thompson, and to press for a Dominion reformatory and provincial pardoning power. In January, 1893, Senator G.W. Allan and others from the Prisoners' Aid Association did meet with Sir John Thompson. Reports from the meeting claimed the Justice Minister viewed the P.A.A. requests favourably. When no action had been taken by Ottawa over a year later despite Thompson's earlier positive response, the Prisoners' Aid Association initiated a remarkable public pressure campaign to achieve its goal.

In May and June of 1894 the Conservative government in Ottawa was the recipient of over sixty memorials requesting a Dominion reformatory, the indeterminate sentence and parole, provincial power to deal with youthful offenders, separate trial and custody for children under arrest and a grant of public money to further the work of the Prisoners' Aid Association of Canada. The petitioners included a range of
organizations, generally Protestant in orientation and for the most part located in Ontario. The Methodist Church was heavily represented. Several local Councils of Women, branches of the Y.M.C.A. and W.C.T.U., and even the Dominion Woman's Enfranchisement Association headed by Dr. Emily Stowe, were represented. The standard printed memorial form was a clear indication of the orchestrating role played by the P.A.A. in the campaign. It is evident that this effort to secure penal innovations was part of a broad stream of social reform.

Through the late nineteenth century the twin processes of industrialization and urbanization worked to change the nature of Canadian society. Labouring class poverty grew as industrialization progressed. The expansion of the impersonal labour market undercut job security and, in conjunction with mechanization, reduced the wages of skilled workers by facilitating the employment of the unskilled in many areas of manufacturing. Women and children were increasingly hired in certain branches of industry, at wages much below those of their male counterparts. The social problems of the new Canada were most evident in the city. Unhealthy and unsafe factory conditions, slum housing, disease, and lower class vice were some of the conditions that alarmed reformers. These concerned citizens, largely of middle class background, acted on a humanitarian impulse to remedy the blights so evident in the industrial city. Prison reform, the temperance crusade, morality legislation, the public health movement, pressure for factory legislation, clean government campaigns,
and even the suffrage movement were all parts of the wide ranging reform effort that flourished during the last two decades of the nineteenth century.

On one level the contemporary reform effort can be seen as a reaction to the challenge to Victorian values that was posed by the poor in the urban setting. Slum conditions threatened the stability of the family. It was felt that the family was failing in its task of socializing the children of the poor to be moral and productive citizens; as a result, many disadvantaged youths were entering criminal ranks. "Numerous reformers and city missionaires", it has been claimed, "noted how slum dwellers apparently considered delinquency, drunkeness, vagrancy, and prostitution as acceptable forms of behaviour in light of the surrounding circumstances".

The social reform effort to deal with this deviance involved in part the repressive use of police and legislative power. Measures to make prisons more effectively punitive and reformatory were one facet of the larger endeavour. Under the leadership of the Prisoners' Aid Association social reform enthusiasm was harnessed to the cause of penal improvement in the 1890s.

Federal parole legislation was passed in 1899, apparently as a product of prison reformer pressure. In 1897 the current Minister of Justice, Oliver Mowat, had promised Prisoners' Aid Association members that some measures they had requested would be enacted in the next session. At the December 7, 1899 annual meeting of the P.A.A. in Toronto,
one leading member, Senator Allan, hailed the conditional liberation statute as "an important step in the right direction". The Report of the Association for 1898-99 expressed the same sentiment, but noted that nevertheless, "What we aim at is the adoption of the Indeterminate Sentence and Parole System--known as 'The Elmira System'--made applicable to all penal institutions." The Prisoners' Aid Association had been instrumental in the introduction of parole into the federal penitentiary system, though that application of the measure had not been the primary aim of the Toronto-based reform group.

The federal parole legislation allowed the Governor General, advised in particular by the Minister of Justice, to issue a license to any convict to be at large prior to the expiration of his sentence. License holders were required to notify the sheriff or police chief in their locale of any changes of address and were obliged to report to that officer once a month. Failure to abide by license conditions was to bring its revocation and imprisonment for either the unserved portion of the original sentence or up to one year at hard labour. Certain offences in connection with the license could lead to three month's confinement on conviction. A striking feature of this statute was its denial of the licensee holder's right to presumption of innocence until proven guilty. The convict on parole could be arrested without warrant if an officer "reasonably suspect[ed]" that the ex-convict was "getting his livelihood by dishonest means". Such a
license holder could be found guilty by a justice if there were "reasonable grounds for believing" that the prisoner was living by "dishonest means". The Act prescribed no supervision of license holders beyond that exercised by the local police officials to whom the ex-convicts were required to report.

The 1899 parole law reflected the limits of Prisoners' Aid Association influence on the federal penal system. Although the conditional liberation statute provided a measure of flexibility in the length of sentences, it did not institute the indefinite sentences desired by the P.A.A. While the prison reformers centred in Toronto were influenced strongly by the American example in their advocacy of parole and the indeterminate sentence, the federal Justice Department was guided primarily by British and Irish precedents in drawing up its conditional liberation legislation. Not surprisingly the Canadian conditional liberation licenses were called tickets-of-leave as they were in Britain. It is not surprising either that totally indeterminate sentences were not adopted in the federal penal system. The principle of the wardship of dependents lent some support to the use of such a sentence with juveniles. In the case of adults, legal rights and a sentence geared to the gravity of the offence were more firmly entrenched legal traditions that could not be readily disregarded.
With the passage of ticket-of-leave legislation in 1899 the Prisoners' Aid Association could congratulate itself on a measure of success. The satisfaction of the Prisoners' Aid Association members was greater still in 1900 when parole provisions were extended to the provincial penal sphere. The other main demand made of the federal government by the P.A.A. was the construction of a Dominion Reformatory to house federal first offenders between the ages of seventeen and thirty. In its agitation for this innovation the Association ultimately failed.

The petition campaign waged by the Prisoners' Aid Association in 1894 initially prodded the federal government into action on the reformatory proposal. Federal estimates in the summer of 1894 contained a sum for the construction of such an institution. By the fall of 1894 members of the Prisoners' Aid Association were dissatisfied with the way the Dominion Reformatory project was developing. In October, at Sir John Thompson's direction, penitentiary officials had investigated sites near Alexandria, Ontario for the planned institution. While a location removed from "urban influence and interference" seemed advantageous to the Minister of Justice, Ontario prison reformers favoured a locale near a large town or city where Protestant ministers and volunteers might readily minister to the prisoners.
Such protests, first voiced by A.M. Rosebrugh of the P.A.A. and then by the Protestant Ministerial Association of Ottawa, did not deter the federal government from its course. In March, 1895, the purchase of land near Alexandria for the purpose of a reformatory was approved by the Cabinet. Since the federal penal system employed chaplains, the absence of outside volunteers able to supply a religious influence may not have been considered important by the government. Moreover, the Alexandria site had the active support of the local Conservative Member of Parliament, Major McLennan, a man who clearly looked for political gain from the location of the institution in his riding.

By 1895 the Prisoners' Aid Association was troubled by questions about the disciplinary organization to be employed in the federal reformatory. Inmate charges of mismanagement at Elmira Reformatory in 1893 had led to two investigations of that institution. Though authorities there were ultimately exonerated, the whole affair cast a cloud over that New York Reformatory which the Ontario reformers had considered a model of its kind. The 1895-6 Report of the P.A.A. urged that a federal royal commission be appointed to inquire into reformatory organization and to produce a matured plan before further steps were taken in the reformatory matter. On June 12, 1895, E.A. Meredith, a pre-Confederation prison inspector later active in the Prisoners' Aid Association, spoke with the Minister of Justice, Sir Charles H. Tupper, on behalf of the P.A.A. Accompanied by another member, Senator Allan, Meredith
pressed forward a new position. A commission should examine
the matter before proceeding further with the reformatory.
To facilitate moral and religious instruction of the inmates
a separate reformatory for Protestants should be constructed
near a large town or city. 122

In reply to Meredith, Sir Charles H. Tupper expressed a
non-committal desire to meet the views of the Association.
123 The Minister had, in fact, entered the meeting with a report
contradicting P.A.A. views. Its author, Inspector of Peni-
tentiaries Stewart, contended that a reliance upon
the experienced officials of the federal penitentiary service
would obviate the needless expense of a royal commission. The
staff chaplains customary in the federal system were preferable
to outside volunteers, he argued. Moreover, the erection of
a separate reformatory for Protestant offenders was deemed by
the Inspector to be "financially impractical". 124 Bolstered
by these arguments, prodded by Major McLennan, M.P., and
likely not unmindful of the political advantages of a large
construction project at a time when an election would not be
too far distant, Tupper persevered in the course that had
been set by his predecessor, Sir John Thompson.

Plans for the Alexandria Reformatory were drawn up. The
project proceeded at a lethargic pace through 1895 and 1896.
Early in 1897, Oliver Mowat, Minister of Justice in the newly
elected Laurier Liberal government, received a deputation
from the P.A.A. reciting their familiar objections to federal
reformatory plans. The representatives urged completion of
the institution at Alexandria for Catholic prisoners and the construction of a second reformatory near a large population centre for Protestants. The Justice Minister was, himself, inclined to scrap the entire federal reformatory project in favour of a less expensive isolation of first offenders at existing penitentiaries. Mowat's predilection in the matter was reinforced by a memorandum written by Inspector Stewart several days after the interview with prison reform delegates. Stewart's note echoed the Minister's criticism of the Dominion Reformatory plan and arrived at the same conclusion that Mowat favoured. In 1897 the decision was taken to terminate work on the reformatory.

Although annual F.A.A. reports for some years to come continued to request a Dominion Reformatory, the project was not revived in this period. In part this promising proposal for the isolation of first offenders at a separate institution died because prison reformers insisted on an institution whose organization and location would allow them their customary role working with its inmates. Without a persistent external pressure for the reformatory, federal politicians and officials following the Liberal accession to power in 1896 were unlikely to display any enthusiasm for such a costly measure initiated originally by the Conservative government as a concession to prison reform pressure. The course of events surrounding the reformatory revealed the quite different orientations of the prison reformers on one hand and the federal authorities responsible for penitentiaries.
on the other. While the impact of American practices upon the P.A.A. was overwhelming, the federal penal system reflected considerable British influence. The use of chaplains, in contrast to reliance upon outside volunteers, was one indication of this. Federal officials, and in particular, Inspector Stewart, placed their professional expertise against the amateur reform enthusiasms of the P.A.A. A host of political and practical concerns that influenced the Ottawa authorities did not touch the prison reformers who remained free to pursue single-mindedly their aim of penal improvement. Although the Prisoners' Aid Association exerted an impact on penitentiary measures, there was little real place for that organization within the federal penitentiary system.

The agitation of the Prisoners' Aid Association and the action of officials within the penitentiary service worked many changes upon the federal system between 1867 and 1899 in the name of convict reform. However, one area of activity related to that goal was largely neglected. This was the specific preparation of the prisoner for release and the provision of aid after discharge. The Crofton system, of course, prescribed a final pre-release stage of confinement at the intermediate prison. Here the prisoner was to be housed under minimal restraint and placed at work visible to the community as an indication he could be safely hired upon his release. There is no evidence that the Board of Directors even considered introducing the intermediate prison into Canada. Inspector James G. Moylan explicitly rejected that
possibility on the ground that the final Crofton stage was not "adapted" to the Canadian situation. Given Canada's wide open spaces, he deemed the lack of restraint of the intermediate prison too great a temptation to escape. Although he did not admit it, Inspector Moylan may have doubted that the Canadian public was ready for such an innovation.

In the 1870s several prominent penitentiary officials urged the formation of societies to aid ex-convicts. These pleas aroused little response. The only related activity in that decade was the religious instruction of female prisoners at Kingston Penitentiary undertaken by concerned Catholic and Protestant ladies from the nearby city.

By the 1890s a new interest in the federal prisoner was evident. In Montreal a Lay Helpers' Association responded to requests from the Anglican chaplain of St. Vincent de Paul Penitentiary to help ex-convicts obtain work and to provide extra clothing when necessary. This group apparently became the Montreal Prisoners' Aid Association in 1892. The redemption of former Kingston Penitentiary inmates from "lives of sin and depravity" occupied some members of the Salvation Army. Salvation Army women attempted to influence certain Dorchester Penitentiary convicts through letters in 1893 in an initiative of which prison authorities for unstated reasons did not approve. All these efforts were indicative of a new concern in some quarters about the plight of the convicted felon.

Despite its eagerness to minister to Protestant convicts in a Dominion Reformatory, the Prisoners' Aid Association did
not extend its prison work to the federal arena in the absence of such an institution. The employment of chaplains at penitentiaries must surely have discouraged the efforts of any Protestant group inspired to prison work, as most were, by a desire to evangelize. The Toronto-centred P.A.A. enjoyed a close relationship with the Ontario government. That relationship was conducive to labouring primarily in the provincial system. Yet, the critical factor in the non-involvement of the Association in the federal system was probably the absence of penitentiaries located near Toronto. It was natural that the volunteers of the Prisoners' Aid Association should go to institutions that were readily accessible and at which they were most welcome.

On several fronts the P.A.A. edged towards a national stance near the end of the nineteenth century. The full name of the organization, The Prisoners' Aid Association of Canada, reflected its pretension of eventually linking a series of local prisoner aid bodies across the country. After 1891 the prison reform pressure of the Association was increasingly directed towards Ottawa. P.A.A. initiative resulted in the convening of the American National Conference of Charities and Corrections in Canada in 1897. One year later the Association and its energetic secretary, Dr. A.M. Rosebrugh, were instrumental in founding the Canadian Conference of Charities and Corrections. Aid to federal ex-convicts in the nineteenth century was minimal. Yet, the heightened activity of prison reformers in the 1890s foreshadowed greater efforts in this area in the twentieth century.
The reformatory prison discipline concept supplied a framework for attempts to reform the convict. The common parentage of penal measures in the period lent a unity to prison development. With the enactment of parole legislation at the end of the century, the body of penal theory that had provided such a persistent inspiration had little left to offer. Implementation of reformatory discipline techniques between 1867 and 1899 had profoundly altered the content of the federal penitentiary system.

A fundamental shift in the application of reformatory prison methods occurred within the late nineteenth century period. Crofton techniques were introduced originally as elements of a single disciplinary process applicable to every inmate. By the 1890s certain classes of prisoners received differential treatment. Solitary confinement was deemed most appropriate for recidivists, troublemakers and those guilty of unnatural crimes. For a time it appeared certain that youthful inmates would be placed in the distinctive environment of a Dominion reformatory. Parole was to be applied primarily to first offenders. Crofton methods and the broader reformatory prison discipline of which they were a part, allowed individual convict treatment only in the insistence that each prisoner progress through the disciplinary stages at his own speed. The later tendency was to apply different varieties of discipline to different classes of inmates. This represented a movement towards "individual treatment". The limitations of convict reform became manifest
in the operation of the late nineteenth century penitentiary system. The challenge that the recidivist presented to original reform assumptions was answered by the altered employment of reformatory prison discipline techniques. Symbolic of this change was the evolution of the Crofton penal confinement stage into fulfillment as a punitive repository for the intractable and unreformed.

The direction of social reform in the outside community reinforced a parallel tendency within the penitentiary. Ontario led the rest of Canada in embracing "rational philanthropy", a tendency featuring the "specialization and coordination of charity agencies and the treatment of each individual as a separate case." In addition, the reform approach to vice and poverty in the urban setting displayed a punitive, repressive aspect that had its counterpart in the stern measures taken with recidivists in confinement. Confirmed felons posed the greatest threat to Victorian values. They brought forth the strongest response. The other side of the broader social reform influence was parole and the attempt to secure a special reformatory setting for first offenders. This concern was in obvious harmony with the general stress of reformers on saving those who were least corrupted. These were the children and youths of contemporary society.

R.H. Wiebe's analysis of American Progressivism suggests a further level of explanation of the changing application of reformatory techniques in the period. Wiebe centres much
of his argument around the rise of a new middle class bearing
a body of bureaucratic ideas "peculiarly suited to the fluid-
ity and impersonality of an urban-industrial world". This
bureaucratic approach is pictured as a rejection of nine-
teenth century idealism in favour of a pragmatic stance rely-
ing on techniques of management rather than fixed rules and
principles. The grand Crofton design of reform by stages in
a system of universal applicability was the product of nine-
teenth century attitudes and assumptions. In selecting
aspects of that system for introduction into Canada, federal
prison authorities employed a criterion of practicality from
the start. Nevertheless the commitment was still to measures
that would combine to form a single disciplinary stream. By
the 1890s Canadian penal authorities and prison reformers
reflected many of the outlooks that Wiebe associated with a
new middle class in the American situation. Expectations of
convict reformation were scaled down in this decade. Convict
rehabilitation was to be managed more scientifically through
a physical separation of classes of prisoners. Differing
modes of treatment were applied to manage convict populations
encompassing a diversity of criminal types.

The reformers in the Prisoners' Aid Association in the
1890s were overwhelmingly drawn from an urban, Protestant
middle class. While some were part of a long established
elite, most resembled members of Wiebe's new middle class.
Within the federal penitentiary service, Inspector Stewart
was one prominent official who fell within the latter
category. Professionals were a key component of this middle class. Occupational background combined with the large scale of the institutions and organizations in Canada's late nineteenth century cities to move these reformers towards a stance of social pragmatism. As one historian has noted with respect to the Ontario prohibition movement in the 1890s, social reform in the decade was in transition; it comprised a mixture of old and new. The continued religious inspiration of prison work was one solid link with the past. The altered application of reformatory prison discipline techniques in the last years of the nineteenth century indicated things to come.

The idea of a single all-encompassing plan of convict reformation was foreign to the twentieth century. The typical response then lay in a variety of techniques of limited application. Yet, twentieth century penal management functioned within a well-developed penal system that had matured in the late nineteenth century. The years between 1867 and 1899 formed a critical period in the evolution of the federal prison system. So much that was in place by 1899 was to persist. Aspects of late nineteenth century penal thought continued to exert an influence after the turn of the century. The aim of reforming the convict had played a major role shaping the federal system in its formative years. It altered the character of the penitentiary in a way that would not be quickly erased.
Chapter Four Footnotes


2 Ibid., pp. 72 - 3, 118.


4 See, for examples: Canada, Sessional Papers 1871, Vol. 6, S.P. no. 60, pp. 1, 2, 5; Canada, Sessional Papers 1872, Vol. 7, S.P. no. 27, p. 18.


9 Ibid.


11 For example, see: Canada, (Province of), Journals of the Legislative Assembly 1849, Appendix B.B.B.B.E., p. 71.


14 Canada, Sessional Papers 1871, Vol. 6, S.P. no. 60, p. 23.


17 Canada, Sessional Papers 1874, Vol. 6, S.P. no. 42, p. 73.
Canada, Statutes 1868, Chap. 75, sec. 62.


Canada, Statutes 1868, Chap. 75, sec. 62.

C.S.C., Kingston Penitentiary, Warden's Letterbook, 1876 - 1879, Creighton to Z.A. Lash, 6 August, 1878, p. 662. See above, Chapter One, p. 34.

See Chapter Two above, p. 85.

Canada, Statutes 1883, Chap. 37, Sec. 53. After the convict earned thirty days remission he was permitted to earn more at the rate of seven and a half days a month. After accumulating 120 days remission, the prisoner could earn more time off at the rate of ten days per month.

For examples, see: Canada, Sessional Papers 1870, Vol. 2, S.P. no. 5, p. 9; Canada, Sessional Papers 1885, Vol. 8, S.P. no. 15, p. 84; Canada, Sessional Papers 1886, Vol. 11, S.P. no. 15, p. 45.

Canada, Statutes 1868, Chap. 75, Sec. 40, ss. 4.

Ibid., Sec. 31, ss. 6.


Canada, Sessional Papers 1873, Vol. 6, S.P. no. 5, p. 64.

Ibid.

C.S.C., Letterbook for 1867, 1867 - 1873, Moylan to Creighton, 12 May, 1873, p. 322.


C.S.C., Kingston Penitentiary, Warden's Letterbook, 1873 - 1876, Creighton to Moylan, 1 April, 1874.

Ibid.
Canada, Statutes, 1875. Chap. 44, Sec. 35, ss. 2 and Sec. 44, ss. 4; Canada, Statutes, 1883, Chap. 37, sec. 65, ss. 4; Revised Statutes of Canada, 1886, Chap. 182, Sec. 60, ss. 4. With reference to the payment of costs of transportation to the place of sentence, it should be noted that the 1879 Amendment to the Penitentiary Act stipulated that the warden did not have to pay the prisoner that full travelling cost if he felt the prisoner did not intend to go to the place of sentence. Canada, Statutes 1879, Chap. 42, Sec. 1.

The Penitentiary Act of 1883 banned the letting of convict labour to any company or private person. Contract labour was carried on at Kingston Penitentiary for a few years after 1883 until contracts in force at the time the ban had expired. See Chapter 6 below.

This discharge payment received little mention as a reformatory tool in the years that followed.


Canada, Sessional Papers 1884, Vol. 9, S.P. no. 16, p. 73.

P.A.C., Department of Justice, A2, Vol. 60, File 679.

C.S.C., Penitentiary Inspector’s Minute Book, 1885 - 1894, Moylan at Kingston Penitentiary, 23 December, 1885, pp. 53 - 54.


Inspector Moylan instructed the Warden of Dorchester Penitentiary in 1887 not to give tobacco to convicts under twenty one. In 1889 this rule was extended to the other prisons. C.S.C., Penitentiary Inspector’s Minute Book, 1885 - 1894", Moylan at Dorchester Penitentiary, 29 September, 1887, p. 214; ibid., Moylan at Kingston Penitentiary, 5 February, 1889, p. 319.

Penitentiary Regulations, 1899, secs. 159 - 161.


Canada, Statutes 1868, Chap. 75, Sec. 33, Sec. 61.

49. P.A.C., Department of Justice, A2, Vol. 20, File 1570.


60. Canada, Sessional Papers 1890, Vol. 9, S.P. no. 10, p. xvii; and, see Chapter three above.

61. P.A.C., Department of Justice, Vol. 111, File 4-21-12, M. Lavell to J.G. Moylan, 9 October, 1894; ibid., A.B.S. Lane to M. Lavell, 2 November, 1894.

62. P.A.C., Department of Justice, Vol. 111, File 4-21-12, Lavell to Maylan, 1 November, 1894; ibid., H.B.S. Lane to Lavell, 2 November, 1894.


64. P.A.C., Department of Justice, Vol. 111, File 4-21-12, Lavell to Moylan, 1 November, 1894.


66. This is discussed further in Chapter Five, below.


See Chapter One above, p. 49.


Canada, Sessional Papers 1875, Vol. 8, S.P. no. 87, p. 77.


P.A.C., Solicitor General's Department, Vol. 6, File 1-8-11, Memorandum for the Deputy Minister re: Convict Clothing, 22 September, 1898.

C.S.C., Kingston Penitentiary, Warden's Letterbook, June 28, 1897 - January 10, 1898, Metcalfe to Kingston Penitentiary Tailor Instructor, 6 October, 1897, p. 482.


P.A.O., Blake Papers, Petition to Lord Dufferin, Governor General, 20 February, 1876.


P.A.O., Blake Papers, General Canadian Political Correspondence, Blake to M.P., 14 October, 1875; C.S.C., Kingston Penitentiary, Warden's Letterbook, 1870 - 1873, Creighton to J.G. Moylan, 23 November, 1872.


These comments above are not intended to apply to the pardons or commutations of the sentences of those condemned to be executed.

82 C.S.C., Kingston Penitentiary, Warden's Letterbook, November 18, 1896 - June 28, 1897, Metcalfe to Power, 2 March, 1897, p. 491.

83 Canada, Sessional Papers 1901, Vol. 12, S.P. no. 34, pp. v - vi.

84 Given the active role of the political head of the Department of Justice, the Minister of Justice, in the parole granting procedure, it is likely that influence had an impact in parole decisions.


86 See, for examples: Canada, Sessional Papers 1887, Vol. 4, S.P. no. 4, p. xi; Canada, Sessional Papers 1891, Vol. 12, S.P. no. 12, p. xii; Canada, Sessional Papers 1888, Vol. 11, S.P. no. 11, pp. xii, xiv, xv.


88 Canada, Sessional Papers 1888, Vol. 11, S.P. no. 11, p. xii - xiii.


90 National Prison Association, Proceedings of the Annual Congress of the National Prison Association of the United States held at Toronto, September 10 - 15, 1887 (Chicago: Knight and Leonard, 1889), pp. 164 - 165. Inspector Moylan did not attend this Congress but undoubtedly received a full report on proceedings as Warden M. Lavell of Kingston Penitentiary was present.


P.A.C., Department of Justice, A2, Vol. 97, File 227.


Graeme Decarie, in his article, "Something Old, Something New... Aspects of Prohibitionism in Ontario in the 1890s", Donald Swainson, ed., Oliver Mowat's Ontario (Toronto: Macmillan of Canada, 1972), pp. 154 - 171, has analyzed the prohibition movement in this period partly in terms of tension between the middle and lower classes. My comments owe much to his analysis.


P.A.O., Report of the Prisoners' Aid Association of Canada, 1898 - 1899, p. 34.

Ibid., pp. 5 - 6.

Canada, Statutes, 1899, Chapter 49, secs. 12, 1.

Ibid., sec. 6.
For examples, see: P.A.O., Report of the Prisoners' Aid Association of Canada, 1897 - 1898, p. 7; Report of the Prisoners' Aid Association of Canada, 1898 - 1899, pp. 5 - 6, 41 - 42.

P.A.C., Solicitor General's Department, Vol. 134, File 1-21-1, J.S. Gibbons, Chairman, General Prisons Board for Ireland, Dublin Castle, 3 May, 1897.

Canada, Statutes, 1900, Chapter 48.

P.A.C., Department of Justice, A2, Vol. 97, File 227, A.M. Rosebrugh to [blank], 13 July, 1894.


P.A.C., Solicitor General's Department, Vol. 5, File 1-6-63, Memorandum for the Minister, 25 February, 1897.

Ibid., A.M. Rosebrugh to J.S.D. Thompson, 26 October, 1894.

Ibid., The Protestant Ministerial Association of Ottawa to Sir Charles Tupper.


See, Brockway, Fifty Years, Chapter XX, for an account of this.

P.A.O., Report of the Prisoners' Aid Association of Canada, 1894, p. 11.


P.A.C., Solicitor General's Department, Vol. 5, File 1-6-63, Douglas Stewart, Memorandum Re. Dominion Reformatory, 29 March, 1895.
Ibid., O. Mowat, Memorandum for Inspector—Alexandria Reformatory, 23 February, 1897.

Ibid., Douglas Stewart, Memorandum for the Minister—Dominion Reformatory, 23 February, 1897.

For example, see: University of Toronto Library, Report of the Prisoners' Aid Association of Canada, 1901 - 1902, p. 37.


Canada, Sessional Papers 1874, Vol. 6, S.P. no. 42, p. 78; Canada, Sessional Papers 1877, Vol. 8, S.P. no. 15, p. 75; Canada, Sessional Papers 1879, Vol. 8, S.P. no. 27, pp. 9, 81.


The expanded ambition and outlook of the P.A.A. at this time paralleled the "nationalization" of a number of women's organizations in the same period. See: Veronica Jane Strong-Boag, "The Parliament of Women: The National Council of Women of Canada 1893 - 1929" (Ph. D. dissertation, University of Toronto, 1975). "Of Canada" was added in 1883.


For example, see: Canada, Sessional Papers 1897, Vol. 12, S.P. no. 18, p. 12.
Information on the members of the P.A.A. is not plentiful. That which is available indicates that the leading members of the Association at least, possessed considerable social and economic status. Two long time members of the P.A.A. executive, Samuel H. Blake and George William Allan, came from affluent families of long standing in the community. S.H. Blake, brother to Edward Blake, was appointed junior Chancellor in 1872 and became senior Chancellor in 1875. G.W. Allen had a lengthy political career prior to Confederation, followed by appointment to the Senate in 1867. Allan was president of the Western Canada Loan and Savings Company by the mid-1880s and was the chief commissioner of the Canada Company for years. Both men were Anglican.

John George Hodgins was a third person prominent in the Association from its earliest days. He served with distinction for years as deputy head of education and was the author of a number of school books. Like Blake and Allen, he belonged to the Church of England.

By the 1890s other members of the P.A.A. had come to the fore. Hamilton Cassels, a Presbyterian and a successful Toronto lawyer, was one. W.H. Howland, an able businessman and Mayor of Toronto between 1886 and 1888, was another. Dr. Abner Mullaholland Rosebrugh was a pre-eminent driving force behind P.A.A. activity in the 1890s. A physician in Toronto since 1859, Dr. Rosebrugh sat on the 1890-1 Ontario Prison Reform Commission and took a special interest in the reform of inebriates.

Other members were prominent, though less active, in the Association by the last decade of the century. Edmund A. Meredith, career public servant and earlier a leading member of the Board of Inspectors of Asylums, Prisons, etc., was one. Another was James Massie, a long time late nineteenth century warden of Ontario's Central Prison in Toronto. Charles K. Clarke, Superintendent of the Hamilton Asylum belonged to the Association. So did J.J. Kelso, a journalist and civil servant particularly active in the contemporary child saving movement.

The leading late nineteenth century members of the P.A.A. had much in common. All were successful in business or a profession. Most were heavily involved in philanthropy and reform activities. The ranks of the P.A.A. included some from an old elite traditionally involved in religiously oriented charity efforts. Yet, by the 1890s at least, a new middle class like that identified by Wiebe was dominant within the Association.


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T.R. Morrison has examined the background of contemporary middle class social reformers in Ontario in some depth. He has found professionals to have been very heavily represented among them. Morrison "Child and Urban Social Reform", p. 85.

141

Ibid., p. 42.

142

Decarie, "Something Old", p. 171.
CHAPTER FIVE

PUNISHMENT IN THE FEDERAL PENITENTIARY SYSTEM, 1867 - 1899

Canada's late nineteenth century penitentiary system was shaped by the purposes it served. One of its most basic and enduring functions was to punish convicted criminals. Penitentiary punishment was not a static phenomenon; its justifications and reality underwent a significant evolution between 1867 and 1899. Reformative punishment gained greater acceptance in some quarters, and a humanitarian impulse prompted an alteration in the types of sanctions levied in the prison. In addition, change occurred in the way punishment was applied. At Confederation the penitentiary provided an equally harsh environment for all prisoners. By the end of the century hardened criminals and those guilty of certain sexual offences faced sterner treatment than did their fellows. Yet, this transition took place within a largely unchanging punitive penitentiary reality. Convicts throughout the late nineteenth century normally faced difficult conditions of confinement.

Several late nineteenth century theories served to justify judicial punishment. The need to deter others from criminal acts was one prominent ground for severity. Comments in Parliament suggest that this rationale was fully
embraced at the political level. The Conservative Prime Minister, John A. Macdonald, was one of a number of politicians who voiced the deterrence theory in the House. As he explained in 1884:

There is, it is said, a passion among the criminal classes to imitate and catch the contagion of a particular crime that becomes epidemic and that attracts public attention and severe sentences are inflicted to crush out such crimes.

There is no record of parliamentary dissent with this and similar claims that deterrence was one legitimate purpose of punishment. The evidence indicates penitentiary officials shared this view.

A premise that can be termed the "principle of least eligibility" specifically linked a punitive prison environment to the demand for deterrence. It was held that the convict should be inferior in his condition of life to the meanest free man. Thus, the thought of penitentiary confinement would be disagreeable to every citizen. Contemporary Canadians were convinced, too, that the penitentiary ought to provide no reward for dishonesty. As one member of Parliament argued in 1895 when opposing the provision of tobacco to convicts:

I must say I cannot see why the convicts should be indulged in any luxuries from which many a poor man has to deny himself.

The principle of least eligibility provided one guideline for the construction of a prison environment sufficiently harsh to deter others from crime.
The deterrence rationale for punishment was supported by the utilitarian philosophy of the eighteenth century English thinker, Jeremy Bentham. Deterrence called for the application of severity to convicts upon a rational calculation of what would be required to prevent others from breaking the law; this justification imposed a limitation upon judicial punishment. Such a limitation was not inherent in certain other theories of punishment.

Another popular opinion held that a criminal should be made to pay for his crime. The concepts of expiation and retribution were both encompassed by this general belief. Expiation drew on the religious tradition of penance. The criminal was a sinner for whom punishment in the penitentiary might provide secular atonement. Many felt, too, that the lawbreaker had offended "society" or the law by his act. Society had the right to exact retribution for such a transgression. As the Inspector of Penitentiaries, James G. Moylan, noted in 1878, the rendering of "justice to the law" and "atonement for the scandal...given" were two ends served by working out a sentence in prison.

Many contemporary penal reformers and penitentiary officials were convinced that punishment could further the cause of convict reformation. There were several ways in which punitive measures were expected to contribute to that end. The prisoner who learned that "the way of the transgressor is hard" might give no future offence. In essence the felon, as well as his potential imitators, was to be deterred from
crime. The result would be a formal honesty that for all its shallowness would still be an improvement over previous lawlessness. Punishment in prison could also be seen as a kind of enforced penance. Some hoped that the expiation of crime in the penitentiary might contribute to a deeper moral transformation.

The application of punishment and the aim of convict reformation were not opposed within contemporary penal theory. Punitive measures occupied an important place within the theory of reformatory prison discipline. The first solitary confinement stage of the Irish system was intended to be a low point in the prisoner's existence from which he could ascend with appropriate conduct. Penal treatment in general made even minor privileges or rewards worth seeking. Moreover, criminals were held to be, by nature, rebellious spirits much in need of taming. "Punitive training", one Canadian Director of Penitentiaries declared, was "best calculated to improve the convict's mental and industrial aptitude, and make his reform lasting". To be reformed the felon first had to be subdued.

The Groton system served as one model for Canadian penitentiary authorities well into the 1880s, but by the last two decades of the nineteenth century the British and American penological examples also held considerable attraction for Canadians interested in penal matters. Developments here still fell within the broad reformatory prison discipline approach. The theoretical role of punishment to provide a
negative incentive to good conduct and to make the convict more malleable, continued largely unchanged. What did gradually alter was the way punishment was to be applied.

In their penological declarations—the post-Confederation Directors of Penitentiaries recognized the existence of degrees of criminality. Yet, the Crofton system was applied equally to all inmates of sound mind. In the 1880s penitentiary authorities increasingly argued that the recidivist should be given special punitive treatment. This demand was the product of the growing identification of different types of criminals. While novices in crime were deemed fitting subjects for an enhanced reformative effort, increased severity was advocated for long time felons. Here was a broad theoretical field for punishment.

Theories of punishment were linked to the application of severity in the penitentiary by the efforts of those persons who exerted an influence on the penal reality. Different rationales for punishment held sway in various quarters. Federal politicians were one group who wielded considerable influence in the penitentiary sphere. Parliamentary votes dictated the money and measures that would be applied to penitentiary operation. Members of Parliament voiced several concerns about punishment. The feeling that prisoners should pay for their crimes and the hope that punishment could be reformatory were both evident in the record of debate. Nevertheless, the most common justification of punishment advanced in Parliament remained the need for deterrence.
There is some evidence of differences along party lines in views on punishment. This variation was a matter of emphasis. Liberals in power exhibited no more wish to eliminate the punitive aspect of penitentiary confinement than the Conservatives were ready to disavow the aim of convict reformation. Nevertheless, the comments of leading figures in both camps suggest that some Liberals at least may have placed less stress on punitive measures than certain prominent Tories. In a private letter to the warden of Kingston Penitentiary in 1871, Prime Minister John A. Macdonald expressed his fears "that your natural kindness of disposition may lead you to forget that the primary object of the Penitentiary is punishment, the incidental one, reformation." Displaying a similar attitude, John S.D. Thompson, Minister of Justice, dismissed a meeting of the American National Prison Association convened in Toronto in 1887, as "largely composed of cranks and sentimentalists whose interference is from ignorance, generally directed to the coddling of prisoners." Alexander Campbell, a former Conservative Minister of Justice, addressed the 1887 National Prison Association convention in his capacity as Lieutenant Governor of Ontario. His message was that the purpose of the prison system was "to repress crime by necessary punishment". While not ignoring the need to reform criminals Lieutenant Governor Campbell's main prescription to reduce crime was "a sort of merciful severity". Campbell, Thompson and Macdonald each influenced the penitentiary system as a result of positions held. All three apparently favoured the stern treatment of convicted criminals.
On the Liberal side, two Ministers of Justice, Edward Blake (1875 - 1902), stand out as apparently less punitive than several of their Conservative counterparts. Blake came under fire during his term as Minister for his commutation of several death sentences. In 1876 even the Liberal Toronto Globe joined in criticism of his commutations: "To keep society in order it is necessary to repel by penalties", declared that journal. "To be pitiful is to be weak, and to lose the command which society has sought to attain by the imposition of penalties against crime".

By the standards the press set, Edward Blake was too lenient in this area of his administration of justice. As Minister of Justice between 1897 and 1902, David Mills also preferred to err on the side of mercy in dealing with judicial sentences. It has been argued that his main focus was upon efforts to reform the convict.

Any difference in Liberal and Conservative attitudes toward punishment should not be overdrawn. Edward Blake, for example, was fully determined that crimes should be adequately punished when he reviewed requests for the reduction of sentences. At least as many measures to rehabilitate penitentiary prisoners were introduced under the Conservatives as under the Liberals. The dominant reality at the political level was a basic consensus on the shape and purposes of the penal system.

Many upper echelon penitentiary officials, most notably the Directors of Penitentiaries to 1875, the Inspector of
Penitentiaries from 1875, certain wardens and a number of prison chaplains, directed much of their attention to the reformatory roles of punishment. Their concern was shared by prison reformers centered largely in the Prisoners' Aid Association of Canada. Penitentiary authorities and prison reformers differed, however, over the legitimacy of punishment applied to further deterrence and retribution.

Within the penitentiary service the need for punishment apart from reformation was widely accepted. Prison reform enthusiasts, on the other hand, went farthest towards rejecting punishment in favour of convict reformation. In 1887, for example, S.H. Blake, brother to Edward Blake and long time president of the Prisoners' Aid Association of Canada, declared before a prison reform congress in Toronto that, "we want to substitute that grand word 'reformation' in place of 'punishment'. Public opinion needs a good deal of education." In 1896 the Prisoners' Aid Association reprinted an address by the American prison reformer Lyman Abbott. In this sermon entitled, "How to Treat the Criminal Class", Abbott contended that redemption of the criminal should be society's sole aim in dealing with offenders. This was the extreme position in the rejection of punitive treatment.

It was natural that the Prisoners' Aid Association should stress the rehabilitation of the offender. Most of the attention of the Association was directed toward those most likely to be redeemed—felons in provincial institutions, youthful offenders, female prisoners and even non-criminals such as the
drunkards and tramps who were often housed in gaols. The main Prisoners' Aid concern with the hardened adult convicts, presumed to inhabit the federal penitentiaries in such large numbers, was to ensure that they did not contaminate more innocent prisoners. In the 1880s and 1890s penal reformers advocated the indeterminate sentence for repeaters and professional criminals. Under the ideal prison system, Lyman Abbott contended, the man fixed in criminality would be "put into a separate cell, compelled to reflect. His industry is carried on in his cell; he is kept separate from the other prisoners; is not allowed to come out into fellowship until he has proved some degree of submission to authority, some degree of readiness for reform."

In the cause of redeeming criminals, members of the Prisoners' Aid Association were ready to see stern measures adopted. These reformers prided themselves on a tough-minded practicality. "Prison reform has nothing in common with the sentimentalism that makes martyrs out of condemned murderers, heroes out of convicted felons," one Prisoners' Aid report declared, quoting with approval the words of the ex-American President, Rutherford B. Hayes. In urging reformation instead of punishment contemporary prison reformers were in effect advocating that there be no punishment not in the service of prisoner reclamation. This position was evident in an 1893 address delivered by S.H. Blake to the annual meeting of the Association.
It is well that for once and all the mistaken notion should be removed, that those interested in this Association's work do not desire that punishment should be awarded to those who, knowingly and defiantly, are breakers of our law. It is proper and necessary that there should be due punishment awarded, not vindictively, but in the interest of justice, in the interest of the community, and in the interest of the criminal himself, who is thus arrested in his wrong-doing and time and opportunity given to ponder over his course and to retrieve his position. While, therefore, a just punishment should be allotted, there should always underlie it the desire of reformation and of bringing back to lost citizenship the offender. 22

Here was a strong emphasis on reformation, but not in a denial of punishment.

Upon theoretical considerations alone the man stressing convict reformation could be as draconian as the proponent of deterrence or retribution. Deterrence sets limits on punishment, and retribution was conducive to a penalty that fit the crime. Under the reformatory ideal, however, measures could be as severe as the process of rehabilitation demanded. "A man with criminal instinct should be kept under control until this instinct is eradicated", one Prisoners' Aid Association report maintained. For a habitual criminal, this report added, the indeterminate sentence would, "materially lengthen the term". 23 Prison confinement until rehabilitated, like hospitalization until cured of disease, could mean an endless coercive treatment in the name of a more humanitarian approach than had been practiced before. Fortunately for the inmates of Canada's late nineteenth century penitentiaries, the judicial concept of gearing imprisonment to the crime remained dominant in the operation of the penal system.
The length of sentence imposed upon the convicted criminal was part of the intended deterrence of the judicial system. Such a sentence could only be deterrent, however, if imprisonment itself provided a disagreeable experience for the convict. Life in the penitentiary had to be a punishment if that institution was to fulfill the purpose expected of it.

Penitentiary legislation and regulations underpinned a harsh prison environment. Unless sickness or a few recognized holidays intervened, the prisoner was “kept constantly at hard labor...every day”. Work was to be a punishment as well as an instrument of reform. Necessities of life were adequate but Spartan. By law prisoners were to be housed in single-cell accommodation at night. Overcrowding sometimes prevented the implementation of this provision, but one man/one cell was the general rule. While there were positive reasons for this practice, its result was at least partially punitive for the inmates involved.

Life in prison was intended to be quite different from life outside; these differences had a punishing impact. Penitentiary arrangements aimed at the isolation of the prisoner. To this end visitors and mail were sharply restricted. Within the prison the rule of silence operated to reduce convict intercommunication. “No convict shall be permitted to speak to another convict upon any pretense whatever”, the first federal penitentiary act declared, “nor to any officer or guard, or other servant of the Institution, except with respect to the work at which he is employed...”. Inmate life was
regulated by a seldom-varying daily schedule. Diet, too, was characterized by a monotonous lack of variation. In addition, convicts were deprived of normal sexual relations. All these features of life made imprisonment a burden for penitentiary inmates.

From the 1880s demands were made for the application of additional punishment to certain classes of prisoners. The indeterminate sentence was advocated for recidivists on punitive grounds, but that measure was not implemented. However, Kingston Penitentiary's Prison of Isolation did effectively institutionalize the administration of differential punishment. With the opening of the prison, recidivists and sexual offenders at Kingston Penitentiary were subjected to initial solitary confinement for crimes committed prior to conviction. This innovation was the product of the increased perception of different types of convicts during the last two decades of the nineteenth century.

Confinement in the Prison of Isolation was also applied as a punishment for misconduct within the penitentiary. It was one of a range of sanctions that could be levied for prison offences. These penalties served the same purposes within the prison that sentences to penitentiary confinement furthered in society as a whole. Chastisements in prison were expected to move the inmate to proper conduct; they worked in conjunction with privileges during the prisoner in the same direction. In this fashion, convict reformation was to be furthered. Prison punishments were devised to deter other inmates from
like offences and to make the offender pay for his deviation from the rules. Stern punitive measures were also applied to bring rebellious prisoners into submission, just as penal servitude in general was prescribed to tame the criminal class.

Most prison penalties involved corporal punishment, isolation or deprivation. Corporal punishment was the most severe of these sanctions. Flogging was administered throughout the late nineteenth century in support of penitentiary discipline. By law, up to sixty lashes could be awarded for any one offence, and several dozen lashes were, in fact, inflicted in many cases. It was common, though, to stop short of the full number if the convict swore amendment. Lashes were customarily laid on with the "cat-of-nine-tails", a scourge with nine knotted strands of whipcord at the end. In 1898 new penitentiary regulations prescribed a leather paddle for the administration of corporal punishment. This paddle, perforated for painful effect, was employed well into the twentieth century.

Certain other varieties of corporal punishment were less common than flogging. Lashes on the hands were awarded at Manitoba Penitentiary in the 1880s. "Birching", or flagellation with a birch rod, was administered at Kingston Penitentiary in the first years following Confederation and for a longer period at Halifax Penitentiary, St. John Penitentiary, and Dorchester Penitentiary. This punishment was deemed suitable for boys in confinement as well as for adults.
Prison authorities had mixed feelings about flogging. At a time when a belief in progress was widespread, whipping was often decried as the relic of an earlier day, an anachronism which, it was hoped, could eventually be eliminated. Penitentiary officials believed that flogging was degrading to the convict and to the man inflicting the blows. In 1888 the Inspector of Penitentiaries was informed by several wardens "that the officers of the staff perform the disagreeable duty of inflicting corporal punishment with the utmost repugnance and disgust...". For these reasons wardens were critical of the flogging penalty.

On the other hand, penitentiary officials felt that there was a need for whipping in the operation of their institutions. Although distasteful, flogging was a useful punishment for certain convicts in specific situations. "Catting" was generally a punishment of last resort. Most prison authorities shared the belief expressed by one warden that "there are, no doubt, some brutes in human shape to whom you can appeal in no other way than by the use of the lash, however much this method is to be deprecated." Flogging was felt to be necessary when dealing with hardened offenders, "men who are so lost to all sense of self-respect and good feeling that they can only be governed by the fear of bodily pain". The Penitentiary Acts prescribed maximum additional sentences for inmates convicted of serious prison offences such as escape or attempted escape. Several wardens, in 1883 at least, judged the courts too lenient in dealing with such cases.
These officers valued flogging as an alternate punishment to judicial penalties considered too light for the prison offences involved. "It was a cause of regret to me that I had to inflict corporal punishment," Warden Godefroi Laviolette of St. Vincent de Paul Penitentiary explained in this vein in an 1883 report, "but [with] the attempted escapes becoming more and more frequent, and the tribunal of justice treating most of the cases of escape or attempts to escape with a leniency rather apt to encourage than to lessen the number, I was left with no alternative...". 38

Penitentiary officials noted repeatedly through the late nineteenth century that the use of flogging was decreasing, and, indeed, it was. 39 Yet, whipping was too useful to be entirely eliminated. Instead, rules were framed to ensure that flogging was used only when clearly required. Under the penitentiary regulations the warden was responsible for judging all reports against convicts and determining whether punishment was merited. The Penitentiary Acts in the post-Confederation period delineated a special procedure when flogging was proposed. In such an instance the chief officer of the prison was required to investigate the facts of the case under oath before awarding punishment and then he was obliged to forward the evidence to a specified higher level of authority. At least as early as 1890 wardens were required to obtain the approval of headquarters before authorizing the infliction of the lash. 40 These procedures undoubtedly contributed to the diminishing number of flogging punishments administered through the late nineteenth century.
Certain other penitentiary punishments, like flogging, primarily provided physical discomfort. Convicts could be, and were, placed in chains, shackles or irons for varying periods of time. These encumbrances were most commonly used with punitive intent although they were also employed to prevent escape. The latter was the case in 1880 when three and one-half pound chains were secured to every convict at British Columbia Penitentiary because one of their fellows had taken flight and it was feared others would follow suit. In 1897 the Inspector of Penitentiaries recommended another alternative to flogging. Let the rebellious prisoner be doused with the water hose until he repents, the Inspector advised. This water hose treatment was authorized by penitentiary regulations issued one year later. The Oregon boot, a weighted shoe appliance locked to the prisoner's foot, was also approved in those regulations. This device was used in the years that followed.

Isolation of the inmate was a second type of prison punishment. It took several forms in the late nineteenth century system. The mildest application was confinement for a few days in the dark, or penal, cells. The longer term incarceration in larger solitary cells known in several penitentiaries as the "dungeon" was more severe. With the opening of Kingston Penitentiary's Prison of Isolation many more cells became available for this variety of punishment.

Solitary confinement was more humane than whipping in the opinion of those officials who were anxious to see the
decline of corporal punishment. However, from a humanitarian viewpoint it is difficult to determine if isolation was superior to flogging. The suffering in solitary was considerable. Several officers in the period commented on the marked effect of the dark cells, a relatively mild and very common form of solitary punishment. One chaplain judged the dark cell, "very light punishment in warm weather" but a "terror" in winter when the wretched convict must remain within it... with no bed, no fire, no room for exercise. One Halifax Penitentiary warden said much about the impact of the dark cell in his confident claim "that a few hours in the dark cell brings the offender to his right senses." Confinement in the dungeon was considered far more severe than incarceration in the dark cells simply because the former carried a far longer term. Moreover, there were additional risks with the dungeon. The Inspector discovered in 1891 that the practice at Dorchester Penitentiary was to deny blankets to convicts in the dungeon. This was too harsh in the Inspector's view, for "a man might in a night contract rheumatism for life". Unpleasant as was this threat to health, it paled in significance before the very real danger of mental deterioration through prolonged solitary confinement.

A third variety of prison penalties entailed various deprivations. These were generally considered minor punishments though they were apparently not without impact. For lesser offences a few day's restricted diet of bread and water was often imposed. Unruly convicts could be denied bedding or
a mattress. These were long-established punishments in the system. With the increased introduction of privileges for good behaviour after Confederation, a new set of deprivations grew in importance. Now the prisoner who broke the rules could lose certain benefits granted to those who were better behaved, benefits such as lights at night, a tobacco ration, library books, the right to attend school, mail privileges and most important, remission time off his sentence. Different combinations of these penalties were employed. The removal of privileges became an increasingly important sanction through the late nineteenth century.

Several other less easily categorized punishments were also administered. The mildest prison penalties were the verbal warnings given to minor offenders. Casual misbehaviour was often dealt with by an admonition or reprimand, or both. The records of one prison distinguished between convicts admonished publicly and those admonished privately. Presumably a rebuke in public meant greater humiliation for some prisoners. The real deterrence of an admonition, though, surely lay with the sterner punishments that would be levied if the warden's warnings were disregarded.

Hard labour was intended to contribute to the general unpleasantness of a penitentiary sentence. In addition, however, work of a useless character, penal unproductive labour, was provided for a few years at Kingston Penitentiary as a special penalty for prison misconduct. One variety of this sanction, the shot drill, was employed between 1869 and 1871.
To the time set by the guards, men placed at this mindless chore would silently and in unison each pick up a shot, carry it to the other end of the punishment room, put it down, turn around, and repeat the process ad nauseam until ordered to stop. Although the warden at Manitoba Penitentiary reported in 1875 that such a punishment was available at his institution, it was apparently only used at Kingston Penitentiary.

Less mindless than the shot drill, but still fully punitive, were oakum picking and work on the stone pile. There is little evidence that convicts were often set at the task of picking oakum, a process of tearing apart rope for fibre, though this punishment was levied in a few instances in the immediate post-Confederation years. The work of breaking stone was more commonly assigned. Smashing rock was not strictly speaking unproductive labour because Kingston Penitentiary at least, derived considerable revenue from the sale of crushed stone. Nevertheless, breaking rock was far from intellectually stimulating. This truth led Inspector Moylan in 1891 to condemn to stone pile as a punishment. The stone pile, he declared, "should share the fate of the tread-mill, the crank and shot drill; and I earnestly recommend, that only those who are incapable of feeling the degradation and are hopelessly vicious and depraved be punished in this way." After Moylan's retirement, however, stone-breaking was still occasionally used as a punishment.

It is clear that the late nineteenth century warden had an impressive selection of disciplinary measures at his
command to maintain order in his institution. The number of
these penalties imposed annually suggests that few convicts
did not feel the weight of some sanction, however mild, dur-
ing their confinement. These penalties contributed signifi-
cantly to the generally punishing nature of the penitentiary
experience.

The harsh treatment of convicted criminals, particularly
those steeped in crime, was demanded on different theoretical
grounds. The result, nevertheless, was widespread support
for a punitive penitentiary environment. In practice the
call for convict reformation meant not the elimination of
punishment but rather a new justification for it and an addi-
tional or alternate guideline in its application. The
framework of the Crofton system unabashedly incorporated sev-
erity as a key component of its programme of convict treatment.
Later proposals for the reform and deterrence of repeaters
had a highly punitive result, the Prison of Isolation.

Penal theory only partially explains the importance of
punitive measures in the penitentiary. The prisoners who
were to be punished must also be considered. Convicts were
disproportionately drawn from the lower class. This was re-
lected in the contemporary concept of the "criminal class".
This perception emphasized the way criminals as a group devia-
ted from the Victorian values, and it stressed the threat to
orderly society posed by lawbreakers. The punitive approach
to penitentiary prisoners was a natural outgrowth from the
opinion that felons were an intractable, brutish class
of persons. If repression was deemed necessary for penitentiary inmates as a whole, it was felt to be doubly required in the case of hardened offenders or repeaters. Increasing concern about recidivists through the late nineteenth century reinforced the belief that severe measures were needed to deal with the inhabitants of Canada's penitentiaries. As a result, punishment was a central part of the late nineteenth century penitentiary reality.


5. Ibid., p. 198.


10. See, for example: Canada, *The Senate, Debates 1889*, p. 70; Canada, House of Commons, *Debates 1898*, p. 7348.


15. *The Mail (Toronto)*, January 1, 1877; *The Morning Herald (Halifax)*, December 6, 1875.


P. A. O., Lyman Abbott, How to Treat the Criminal Classes (Toronto, 1896), pp. 9 - 10.

Ibid.


This basic viewpoint is well presented in William Thomas McGrath, ed., "Crime and its Treatment in Canada (Toronto: Macmillan of Canada, 1965), Chapters 1 and 2.

Canada, Statutes 1868, Chapter 75, Sec. 31, subsection 4.

Ibid., subsection 7.

Ibid., sec. 32.

See Chapter Four above, p. 230.

See Chapter Three above, pp. 155 - 156.

Comments below on the nature of prison penalties are based on punishment statistics for the penitentiaries of the system, 1868 - 1899. Those statistics are included in the annual reports on penitentiaries 1868 - 1899, published in Canada, Sessional Papers 1870 - 1900.

Canada, Statutes 1868, Chapter 75, Sec. 33; Canada, Statutes 1875, Chapter 44, Sec. 37; Canada, Statutes 1883, Chapter 37, Sec. 61.

At Dorchester Penitentiary the "cat" was made of leather.

Penitentiary Regulations 1892, Sec. 179, subsection e.

As Warden Charles Ketchum of St. John Penitentiary declared in 1879: "I am fully convinced that with the proper facilities for strictly solitary confinement and restricted diet, corporal punishment, may be of very rare occurrence, if not entirely dispensed with in our prisons."
C.S.C., Inspector's Minute Book Number 1, 1878 - 1892, 23 August, 1888, pp. 139 - 140.

Canada, Sessional Papers 1889, Vol. 11, S.P. no. 12, p. 84.


The annual average incidence of flogging punishments in the system between 1868 and 1877 was 2.3%. (Calculating numbers of floggings as percentages of the relevant male penitentiary populations.) By the 1890 to 1899 decade that average annual incidence of floggings had declined to .46%.

Canada, Statutes 1868, Chapter 75, Sec. 33; Canada, Statutes 1875, Chapter 44, sec. 37; Canada, Statutes 1883, Chapter 37, Sec. 61; Canada, House of Commons, Debates 1890, p. 1121.

C.S.C., Inspector's Minute Book No. 1, 1878 - 1892, Walkem, 20 April, 1880, pp. 82 - 84.

P.A.C., Solicitor General's Department, Vol. 47, File 1-1-33, Stewart to A.G. Irvine, 17 September, 1897.

Warden John Creighton of Kingston Penitentiary asserted in 1880, for example, that such solitary confinement had a most satisfactory "deterrent effect upon the incorrigibles to be found in every large institution of this kind." Canada, Sessional Papers 1880 - 1, Vol. 9, S.P. no. 65, p. 24.

Canada, Sessional Papers 1868, Vol. 8, S.P. no. 40, p. 32.

Canada, Sessional Papers 1873, Vol. 6, S.P. no. 75, p. 52.


Inspector Moylan, himself, noted in his 1876 annual report the well-accepted harmful effect of solitary confinement over long periods on mental health. Canada, Sessional Papers 1877, Vol. 8, S.P. no. 15, p. 9.

This was the practice at Kingston Penitentiary in the early 1870s.
During the 1868 to 1899 period there were 69 instances where the number of times a punishment was administered at a penitentiary in one year exceeded the number of inmates confined that year. In this respect admonitions were administered most often, followed by bread and water, and loss of remission, in that order.
CHAPTER SIX

THE AIM OF ECONOMY AND THE SEARCH FOR
PRODUCTIVE PRISON INDUSTRY

Certain administrative concerns helped to shape the penitentiary system. The pressure for economy was prominent among them. Prisons were expected to operate as efficiently as possible with a minimum of public expenditure devoted to their support. It was felt that prisoners, as able-bodied persons, should earn their keep. Convicts had preyed upon society with their criminal acts, and it was not believed to be just that honest citizens should bear a further heavy burden for the confinement of such felons. On the ground of punishment, too, expenditure on penitentiary inmates and prisons was limited. The resulting bias towards frugality had important ramifications. The aim of economy lent great significance and urgency to the persistent problem of finding appropriate work for convicts.

Some members of the public objected to any convict employment that competed with free labour or with Canadian business. This made the search for suitable prison industries more difficult. Yet, penal authorities continued their attempt to find productive prison industries because the revenue from those industries would reduce the need for public
expenditure on penitentiary maintenance. That aim of economy was a constant factor in late nineteenth century attempts to find appropriate employment for convicts. Together the related requirements of prison economy and prison industry had a marked impact on the federal penal reality.

The aim of economy took several forms. One enduring ideal was the approach of the penitentiary to economic self-sufficiency. This necessitated convict labour that produced revenue. The levels of public money required for the operation of late nineteenth century penitentiaries left little room for hope that such institutions would ever wholly pay their own way. The more realistic objective pursued tenaciously by most federal parliamentarians was to make penitentiaries "more self-supporting".

The American example fuelled the Canadian enthusiasm for compelling convicts to earn their keep. Congregate labour for the production of prison revenue had been a major attraction of New York State's Auburn system for Upper Canadian authorities in the early 1830s. The New York State penitentiaries in the 1830s enjoyed more surpluses than deficits in their budgets; this proved that self-sufficiency was possible. However, the opposition of American workers to competition from convict labour led to restrictions on prison industry in New York State in the 1840s. From that time, state penitentiaries were not able to employ their inmates as remuneratively as before. The day of greatest fiscal success in the New York State prison system was long past by the late nineteenth.
century; yet, penal authorities in the United States and Canada still sought to employ convicts to financial advantage. A number of Canadian penitentiary officials and politicians were influenced by continuing American efforts toward prison self-support. In 1876 Warden Creighton of Kingston Penitentiary offered to tour American state prisons to "see in practical operation the various modes of employment which are said to be profitable there." His successor, Warden Lavell, did inspect prison industries at a number of institutions in the United States in 1892 as part of his quest for suitable work for the Prison of Isolation. Critics of "extravagance" in Canadian penitentiaries on occasion compared the economics of prison management in this country with the situation in the United States to Canada's disadvantage. As late as 1889 one member of the Canadian Parliament recalled with admiration that time "a few years ago" when "the prisoners in the Auburn State Prison--corresponding to our penitentiaries--were employed so that they paid very nearly the whole cost of the penitentiary..." Nineteenth century Canada and the United States were following parallel paths with the demand that remunerative convict labour lessen the burden of the taxpayer.

Economy entailed more than the support of the prison through inmate industry. Frugality and efficiency in penitentiary administration were also stressed. The revenue which a penitentiary earned had to be carefully allocated to meet expenses that were themselves kept to a minimum. Detailed accounts, centralization in the control of penitentiary
expenditure; and periodic prison inspections were some of the
devices that furthered the goal of the rigourous and parsimon-
ious management of penitentiary finances.

The aim of prison economy was voiced in Parliament. "Views
in this area changed little in the period. Federal politicians
condemned "extravagance" at federal penitentiaries and frequently
expressed their belief that such institutions should impose
less charge on the public. While seldom admitting instances
of unjustified expenditure, governments of the day commonly
agreed with opposition members that penitentiaries, like
other government operations, should be run economically. How-
ever, it can be argued that the nature of the penitentiary
situation gave additional force to parliamentary arguments for
prison economy. Convicts were physically capable of contrib-
uting to their keep through their labour. Accordingly, the
reduction of public expenditure was feasible in the peniten-
tiary sphere where it was not in many other areas of govern-
ment jurisdiction. Politicians were naturally anxious to pur-
sue this possibility of reduced cost.

Contemporary conceptions of the "criminal class" also
militated towards a restricted public disbursement on prisons.
Convicts were likened to leeches who had batten on the public
through their initial crimes and who, in confinement, imposed
a further burden of maintenance on honest citizens. Anger
at this situation reinforced the contemporary determination
that prisoners should earn their keep. "While being reasonably
well fed" convicts "should be made to really earn what they
eat", one Member of Parliament declared in this vein in 1889. "It would be quite possible to arrange some plan by which no convict would get more to eat than he earned in a day's work", that Member continued. "Let him earn his three meals a day or go without a part of them."

The status of the 'criminal class' was such that public money would seldom be "wasted" on "extras" for their comfort. The "criminal class" was a pariah group of negligible standing among the rest of society. It was widely accepted that the depredations of these convicts robbed them of the right to any special consideration. In addition, the aim of punishment provided a further ground for the strict limitation of expenditure on convict maintenance. If crime was to be punished and potential lawbreakers were to be deterred, prison life had to be harsh. On this point the ends of economy and punishment led to the same conclusion.

Officials at different levels of the penitentiary service were alive to the requirements of economy. Not surprisingly, the members of the Board of Directors (1868 - 1875) and the two succeeding late nineteenth century Inspectors of Penitentiaries preached the virtues of thrift to their subordinates. The Directors and Inspectors concerned themselves with the most trivial items of expenditure in their zeal to keep the budget under control. In 1876, for example, Inspector Moylan went the length of chiding the warden of St. John Penitentiary for spending too much on attempts to recapture escaped convicts. Inspector Stewart's predecessors would most certainly
have concurred with his declaration in 1895 that, "Ideal efficiency at a minimum expense is not easily attained, but it is the objective..."

The penitentiary warden bore the brunt of his superiors' injunctions to economize. "The strictest economy in the maintenance of the Institution shd [sic] be practised", Inspector Moylan once exhorted the chief officer of British Columbia Penitentiary. "This is one of the principal tests by which the success of the Warden's administration will be judged." Wardens were alive to this fact. "I have studied to enforce economy in the use of articles consumed, and in the application of labour in the various departments, to the utmost of my power," one warden asserted in a typical declaration of zeal in the control of expenditure. The late nineteenth century warden's concern for economy was also manifested in the advancement of excuses for unsatisfactory fiscal results. Warden Flinn at Halifax Penitentiary was able to blame a "general depression of trade" in 1877 for declining revenue at his institution, while others like the warden at St. Vincent de Paul that same year, bemoaned the lack of productive industry as the reason for an unsatisfactory balance sheet. Explanations of high costs varied, but if the warden was open to charges of loose management such explanations had to be made.

The importance of the balance sheet to a warden's career was strikingly apparent in the case of Samuel L. Bedson of Manitoba Penitentiary. Bedson came west as an officer with
the Wolseley expedition to Red River in 1870. In 1871 he was appointed warden of the Lower Fort Garry Prison. When Stony Mountain Penitentiary opened in 1877 Bedson became its chief officer. Warden Bedson managed that institution until 1891 in a manner which won him praise for the discipline maintained. That discipline was "as near perfection as it could well be," Inspector Moylan once enthused, and it "excites the admiration of every visitor". Yet, despite the "scrupulous cleanliness, system, order and neatness everywhere" at Manitoba Penitentiary in Warden Bedson's time, his regime suffered from one glaring defect. The annual per capita operating cost at Manitoba Penitentiary was regularly the highest in the penal system. The condemnation of extravagance at the Manitoba prison became an annual affair in Parliament in the years prior to Bedson's retirement. Though the Minister of Justice pointed to a number of extenuating circumstances, Bedson, himself, received much of the blame for the unsatisfactory fiscal situation. By 1891 when he was granted his request for retirement on the ground of ill health, Bedson's reputation as a model warden had been sadly marred by his "alleged extravagance".

Certain aspects of daily life in the penitentiary were affected by the pressure towards economy. The quality of food which the prisoners were fed was determined in some cases by cost. On one occasion, for example, the Assistant Inspector for British Columbia Penitentiary ordered the vegetable ration cut in half on budgetary grounds. "I see no reason", he expostulated, "why these vegetables which represent money drawn from
the rations estimate should not be as carefully looked after as the money would be itself. The cell meals which were instituted in the early 1880s at every prison except Kingston Penitentiary, were intended in part to reduce costs. Prison authorities argued previously that congregate eating presented a real risk of convict revolt and that officers should be provided noon meals so that they would be present in the dining hall to quell any trouble. Deputy Minister of Justice Z.A. Lash and Inspector Moylan embraced the change to cell meals as a measure that would eliminate the expense of providing free noon meals to staff. The nature of convict uniforms, too, was dictated to some extent by cost. Finally, repairs and improvements, like all other aspects of prison operation, were limited by the state of penitentiary revenue and the desire for thrift.

The working conditions of penitentiary officers were also shaped by the aim of economy. The levels of pay sanctioned by Parliament made it difficult for wardens to attract to prison work the calibre of officers they would have wished. To keep expenses down wardens customarily attempted to get by with as few officers as possible. In one display of that spirit Warden Ferres of Kingston Penitentiary once declared himself ready to discharge "a considerable number" of his officers in order to save money. The busy summer work season was almost over and despite the anger of those who would be dismissed Warden Ferres could not "see that, for the sake of personal popularity in a small neighbourhood, I should take
the responsibility of paying away the money of the general public without reason..." Warden Ferres was not alone in that view.

Warden Creighton of Kingston Penitentiary went farthest in trimming staff to save money. "Under his administration trade instructors were almost entirely eliminated, all on the ground of economy. They were replaced by skilled guards or convicts. "Every officer and servant of a Penitentiary knows that the Warden has the right to exact his services without extra pay, in any capacity for which he may consider the officer fit", Warden Creighton noted in 1881 when urging that a recently deceased Blacksmith Trade Instructor be succeeded by two guards who would not receive higher pay for the new duty. During his term of office Warden Creighton relied heavily on convicts in positions of responsibility in an effort to reduce costs by taking advantage of their skills. Under his particularly energetic supervision this device proved to be practical. After Creighton's death in 1885, however, the use of convicts in responsible posts was criticized by his successor, Michael Lavell. Lavell claimed that Creighton's system had led to "abuses" and "irregularities". Creighton's policy was reversed shortly afterwards and official trade instructors were once again appointed at Kingston Penitentiary.

The pervasive concern about economy influenced the choice of penal methods employed within the system. In 1877 Inspector Moylan noted that the adoption of the solitary confinement phase of the Crofton system in Canada would involve
"great expense". Given the "financial depression prevailing" he contended that it was not the appropriate moment to press for fuller implementation of the Irish plan. That portion of the plan was never instituted in Canada in its original form. In practice, those parts of the Irish system were taken up that did not require large-scale expenditure.

Few contemporary proponents of penitentiary economy declared that aim to be the primary objective of the penal system. Some authorities, like the Board of Directors in 1870, asserted with varying degrees of conviction the priority of convict redemption over prison profit. The reality of contemporary prison life is evidence that the desire for thrift did not interfere with the requirements of punishment. Nevertheless, the cost of penitentiary operation was one prominent preoccupation of those interested in the penal system. Even attempts to reform convicts were justified in part by the contention that such efforts made sound economic sense. The prisoner who was reformed, it was argued, would present no further charge to the public but would, rather, contribute to the good of society as a productive, honest citizen. In the long term this was true economy.

The aim of economy was closely linked to the persistent and thorny problem of providing productive labour for penitentiary inmates. The bulk of the convicts at each prison were engaged in labour which did not produce revenue and which was, therefore, termed "non-productive". However, the desire that penitentiary prisoners contribute to the cost of their
maintenance was a powerful pressure towards their employment at tasks yielding financial returns. The late nineteenth century period saw a transition from contract labour to several other less objectionable modes of garnering profit from the industry of prisoners. None of these alternatives proved entirely satisfactory. Near the end of the century Inspector Stewart still judged the search for revenue-producing employment to be "the principle difficulty in connection with the administration of the penitentiaries..." Nevertheless, patterns had been set for the future.

The ideal of prison self-support was only one of many considerations which ensured that industry occupied an important place within the penitentiary sphere. Work was also valued as an instrument of convict reformation. "Nothing else appears likely to give a man a taste for making a livelihood by honest instead of dishonest means", Goldwin Smith, that transplanted British liberal and prominent journalist, once asserted in an effective expression of the contemporary consensus. Labour was regarded, too, as an effective deterrent to the criminal class. "When a prisoner finds that he has to work as hard in a prison as he has outside, to get a living, he will think twice before he commits a crime", Warden Forster of Dorchester Penitentiary confidently declared in 1896. His opinion reflected contemporary wisdom through the period. Several wardens noted a practical benefit from the employment of their charges. "Men employed at intelligent labour", one chief officer explained, "are better
behaved and give less trouble than others not so employed..." 32
In addition to facilitating the control of the convicts, regular employment, particularly in prison agriculture, was held by some officials to contribute markedly to convict health. Yet, few Canadian wardens would likely have gone as far as Warden Brush of Sing Sing who described the effects of idleness in prison as "horrible to contemplate", in a report noted by the Ontario Prison Reform Commission of 1890 – 91. Unoccupied "prisoners soon become restless, unhappy and miserable", Warden Brush asserted. "Time with them passes slowly. Their bodies soon become diseased. In fact, nothing but disease, insanity and death can be expected from this condition." 33

Clearly, there were compelling reasons for the provision of convict employment. Many prisoners were set to tasks of penitentiary maintenance, but difficulties arose in devising work for the others. One question concerned the advisability of productive labour for convicts. The goal of penitentiary self-support led Upper Canadian authorities in the 1830s to institute a congregate labour system capable of producing revenue. Britain, however, presented a prominent example of the use of penal unproductive labour as a tool of convict rehabilitation. In 1867 the British Secretary of State for the Colonies, Edward Cardwell, sent to the Governors of British Possessions in North America and elsewhere, a summary of responses to an earlier series of questions on Empire penal practices. In a covering message Cardwell emphasized the importance of rigorous penal unproductive labour in the early
stage of imprisonment to make a felon's sentence truly deterrent. The British contention in 1867, and for some time after, was that penal unproductive labour was genuinely economical because it "eventually reduces the number of offenders to a minimum". Here was one possible model for the federal penal system.

The pre-Confederation Board of Inspectors accepted the British and Irish assertion that penal unproductive labour should form part of the prisoner's sentence. This penal unproductive labour was linked in the theory of the Crofton system to the period of initial solitary confinement imposed upon each incoming convict. For the Board of Inspectors and then, from 1868, the Board of Directors, the adoption of penal unproductive labour apart from the purposes of special punishment, had to await the implementation of the first stage of the Irish system. Penal unproductive labour had a minimal presence in the Canadian system because the initial solitary confinement of incoming prisoners was not adopted in the immediate post-Confederation period. By the last decades of the century most Canadian prison officials condemned penal unproductive labour as an anachronism. Productive and profitable congregate labour remained the norm in Canada's federal penal system.

The prison industry question arose with respect to those prisoners not needed for the operation of the penitentiary. These convicts formed a labour pool capable of yielding revenue if properly employed, and several approaches were adopted in
the late nineteenth century in a persistent attempt to exploit that potential. The contract labour system was one early and controversial means of employing prisoners to monetary advantage. Under this system the labour of a specified number of convicts was hired to a private individual for a time period and daily per capita price fixed by contract. Contract work was performed within the prison in a workshop set aside for that purpose. Penitentiary authorities undertook to supply guards to maintain discipline but it was the contractor's obligation to furnish skilled instructors to oversee the inmate workers. Contract rates in the first decade after Confederation ranged at least as widely as fifty cents and twenty cents per man daily. These rates were apparently far below the wage rates of those in comparable occupations outside the prison. (See Table 6-1.) A cheap labour price was the major attraction that penitentiaries could offer prospective contractors.

The employment of convicts on a contract basis was not widespread in Canada. Only Kingston Penitentiary featured contract labour in the traditional form. At that prison in the post-Confederation period three different contracts were held for varying lengths of time: one contract for cabinet making, one for shoe making and one for the manufacture of locks. Under conditions of maximum employment cabinet making occupied fifty prisoners and cobbling and lock-making each employed one hundred. Yet, despite the restricted scale of contract work, the contract labour system gave rise to criticism
TABLE 6 - 1

WAGE RATES IN SELECTED OCCUPATIONS, 1871 AND 1884

Average daily wages in Toronto
as reported by immigration agents, 1871

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carpenter</td>
<td>$1.50</td>
</tr>
<tr>
<td>Cotton carder (male)</td>
<td>1.00</td>
</tr>
<tr>
<td>Farm labourer (skilled)</td>
<td>1.00</td>
</tr>
</tbody>
</table>

Average weekly wages of males in Ontario
in selected occupations, 1884, as reported by employers and workers

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carpenter</td>
<td>$9.85</td>
</tr>
<tr>
<td>Labourer</td>
<td>6.79</td>
</tr>
<tr>
<td>Machinist</td>
<td>9.96</td>
</tr>
<tr>
<td>Spinner</td>
<td>7.69</td>
</tr>
</tbody>
</table>


and problems in the years of its post-Confederation operation. Most of the complaints that were aired after 1867 had been heard before. This was certainly true of the argument that contract labour undercut the proper functioning of the prison. The Directors of Penitentiaries (1868 - 1875) were among those who condemned contract labour as neutralizing efforts to reform the convicts. It was claimed that the contractors, interested only in profit, gave workers incentives not allowed in the prison rules, undermining discipline and the reformative
regimen of the prison in the process. "Contract labour", one chaplain maintained was "corrupting and depraving to the convicts themselves" and was "fatal to any proper discipline".

Claims that contract labour defeated the more important reformatory goal of the prison were not a major pressure towards the abolition of contract labour. These criticisms had been voiced for years prior to Confederation, with little effect. At least one chaplain was frustrated by this persistence of the contract system:

I have been protesting against this iniquity for many years. Successive years have come and gone and left no change. The system has grown worse and worse.

However, penitentiary authorities as a whole were divided in their opinion on the question. At Confederation, for example, the Board of Inspectors and the Kingston Penitentiary Protestant chaplain opposed contract labour, but the warden, D. AE. Macdonell looked quite favourably upon the system. This typical absence of unanimity could only weaken the force of that criticism which did emerge.

The pressure for penitentiary revenue weighed heavily with upper echelon penal authorities and politicians concerned with the contract labour issue. Warden Creighton of Kingston Penitentiary was one officer who expressed mixed feelings on the subject. Yet, despite his misgivings he concluded that "the contract system must prevail" in any "self-sustaining" penitentiary. In 1870 the Directors of Penitentiaries publicly declared their intention to end the contract labour system, but in practice they continued it.
Apparently the wish for revenue and convict employment was paramount. In 1873 the Directors even attempted to extend the contract system to St. Vincent de Paul Penitentiary. The aim of prison self-sufficiency and the need for convict employment both ensured that penal officials would not easily dispense with contract labour.

Another source of opposition to the system of hiring out convicts was organized workers outside the prison protesting competition from convicted felons. The Canadian Labor Union, a broad federation of trade unions surviving for a few short years in the 1870s, argued against competition from prison labour. At the third Congress of the Canadian Labor Union some of the speakers were far from charitable to convicts: one speaker branded them the "worst class in the country" and another declared that "if there were to be hewers of wood and drawers of water the criminals...should be the ones". These comments suggest a sort of righteous indignation among the delegates at being forced to compete with the worst elements of the population. The main objection of the workers to the contract system, however, was that "the work turned out by the criminals was [not] sold at the same rate as outside work."

Later labour centres, most notably the Trades and Labour Congress, were also concerned about competition from the employment of convicts. By the late 1880s contract labour had been eliminated in the federal system, as will be seen, but unfair competition from penitentiary industry remained a complaint
of organized workers. Trade union antagonism towards penitentiary labour was often belittled by prison reformers aware of the important role that industry might play in the prison. The Prisoners' Aid Association, for example, typically urged unions in 1892 to "look at this question from a patriotic rather than a trades standpoint". However, the stance of organized labour can only be understood in the context of contemporary restrictions upon the labour market as a whole. Convict industry was only one of a number of departures from an open labour system, departures which lowered wages in the period. Another form of low-paid labour, the importation of foreign workers under contract, was the subject of much attention on the part of the Canadian Labor Union and the Trades and Labour Congress. The Knights of Labor in British Columbia and the Trades and Labour Congress were both aroused by what they felt was the unfair competition posed by Chinese workers imported by employers anxious to take advantage of low Asian pay expectations. Though prison industry did not compete with the industry of free workers on any scale, it was a threat as part of a broader range of arrangements tending to lower wage rates in late nineteenth century Canada.

Ultimately the fate of contract labour was decided at the political level. The record of debate in the House of Commons in the 1870s and the 1880s reveals that both the Liberal and Conservative parties were aware of the feelings of organized labour in the matter. Contract labour was most often criticized in Parliament for the competition it presented
to honest workers. Nevertheless, contract labour was only slowly phased out after Confederation. Its termination seems to have been as much the product of practical considerations as the result of organized workers' pressure.

The first step towards ending contract labour came in 1873. At that time the Conservative government announced that all contracts for labour at Kingston Penitentiary would cease in three months. For unknown reasons that stated policy was not implemented. In 1875 the Liberal Prime Minister, Alexander Mackenzie, promised to assess the contract labour question. The result was the continuance of the contract labour system through the Liberal term of office. In opposition the Conservatives had protested contract labour, but for a time after they were returned to power in 1878 those protests were forgotten. Edward Blake took delight as federal Liberal leader in 1882 in reminding the Conservative government of their earlier stance:

The labour in which the [Kingston Penitentiary] convicts have been chiefly employed during the past year has been in the manufacture of door locks, a most monstrous thing. It is the old contract for the manufacture of door locks for which I have heard the Hon. member for Lambton [Alexander Mackenzie] and the Liberal Government denounced, and still it is kept in operation and has been going on ever since.

In 1883 the Macdonald government finally acted decisively in the matter. Penitentiary legislation in that year stipulated that no convict labour would be let out to any private company or person in future, though existing contracts were not to be affected. In Parliament in 1884 the Conservative Prime
Minister explained his government's position to David Mills, a leading Liberal proponent of revenue-producing convict employment. "Rightly or wrongly", Macdonald asserted, "the working classes, especially those employed in industries which have been introduced into penitentiaries, have constantly protested against convict labour... I think it is worth while, on higher grounds than mere political economy, that these men should feel that their special trades were not interfered with."

Yet, the Conservatives were not left unchallenged in their attempt to gain whatever labour support could be won through opposition to contract labour. Existing contracts were very slowly phased out at Kingston Penitentiary. This allowed the Liberal leader, Blake, to attack the government on at least one occasion for a de facto continuance of the contract system. However, by 1887 the last contract, an arrangement for lock-making, was terminated. The contract system had been ended by a Conservative government responding in part to arguments from organized labour. In this context, the termination of the contract system can be seen as one of a number of actions taken by the federal Conservatives in an effective competition with Oliver Mowat's Ontario Liberal government for the political support of organized workers. Alternately, given the numerical weakness of organized labour in Canada at the time, it can be argued that the real cause of concern to the government was the potential immigrant labourers from Britain. If these workers...
the success of the National Policy, were to be attracted to Canada, labour concerns about convict labour had to be assuaged.

Protests against contract labour were one pressure towards the abandonment of the system. Yet the limited extent of contract labour within the post-Confederation penal system and the difficulties experienced in hiring out convicts both made it much easier for the federal government to accede to trade union demands. Contract labour was not a major source of revenue in the penal system as a whole; it was restricted to Kingston Penitentiary alone and involved only a portion of the prisoners there. Moreover, Kingston Penitentiary authorities experienced difficulties in collecting money owed to that institution by at least two of its contractors. In the first three years after Confederation, too, revenue from contract labour declined. This phenomenon was linked to a persisting problem finding persons willing to take up contracts. Not surprisingly this was most acute during the economic depression of the 1870s. Because of hard times at least one Kingston Penitentiary contractor, George Offord, a maker of shoes, withdrew from his contract. By the middle 1870s the contract system at Kingston Penitentiary was in a state of decline. The Macdonald government in the 1880s provided the coup de grâce.

The desire for revenue from inmate labour remained undiminished among politicians and prison authorities even as the contract labour system was dying. One late nineteenth
century alternative was the "piece price" system. This was a plan of convict employment that seemed to enjoy the advantages of contract labour while not sharing some of its flaws. Under this scheme private contractors supplied materials for the manufacture of specified items and paid the penitentiary for the number of articles of adequate quality that were produced. Revenue was obtained but prison labour remained under the control of penitentiary authorities. As a result there was less likelihood of a deterioration of discipline through the interference of outsiders.

The "piece price" plan was operated at Halifax Penitentiary until 1875 as a continuation of pre-Confederation practice. A shoe maker in the city furnished leather to the prison and paid a set price for each pair of finished shoes. As long as it continued, this arrangement provided a valued source of profit for the institution. Hard times intervened, however, and in 1875 the contractor proved unable to provide further work. The piece price system was not adopted again within the penal system in the late nineteenth century. Despite the advantages of this approach, it was open to the same criticism from free workers that contributed to the abandonment of contract labour.

A more promising substitute for contract labour was the manufacture of items for sale to the public. With this mode of production prison officials fully controlled the industrial process. Moreover, it was argued that a careful selection of products could eliminate any competition with Canadian economic
interests. In the Maritimes and at Kingston Penitentiary this type of convict employment had a significant presence. Brooms were made for public sale at Halifax Penitentiary and at St. John Penitentiary prior to the closing of those institutions as penitentiaries in 1880. At St. John Penitentiary, however, pails, tubs, wash boards, clothes pins and wheel barrows were manufactured by the convicts as well. When Dorchester Penitentiary opened in 1880 it inherited the machinery and industry of its St. John predecessor. It took some time to re-establish prison manufacturing at Dorchester but by 1885 that penitentiary was profitably producing butter tubs, broom handles, wash boards and clothes pins for sale to the public.

By the end of the nineteenth century only butter tubs were still being made at Dorchester Penitentiary and even that branch of manufacturing was experiencing difficulty. The reasons for the decline are not readily apparent, though a lack of profitability for certain prison commodities was cited as a factor at the time. In addition, criticism from private business played a part. As early as 1886 the manufacturing at Dorchester Penitentiary came under fire in Parliament for competing with Canadian interests. Later protests by interested businessmen against the underselling of prison goods led the government to agree to dispose of the prison output through private parties engaged in the trade, or at going prices. The commission which was subsequently paid to private sales agents reduced penitentiary profit. Sales difficulties were important to the decrease in manufacturing for public sale at Dorchester Penitentiary.
The production of items for purchase by the public was a significant activity at Kingston Penitentiary at several points through the late nineteenth century. In the first decade after Confederation the sale of stone and crushed rock from the prison quarry produced considerable revenue for that institution. No saleswork was necessary as unsolicited orders were commonly sent to the warden. When orders were filled, the stone was sent by ship to various destinations on Lake Ontario. During the 1873 to 1878 depression, the number of convicts employed on contract work dropped sharply. At that time the stone business provided Kingston Penitentiary with an important alternate source of income. In 1876 the warden was able to report sales of limestone to a value of nearly $5,000. However, construction at Kingston Penitentiary increasingly limited the limestone available to outside interests. In 1878 the warden of Kingston Penitentiary was compelled to inform one would-be customer that, "We are so busy with work of our own at present that we cannot take orders from outside..." Sales of stone were made occasionally in the succeeding two decades but by the end of the 1870s the day of the stone business as a leading source of revenue was past.

Certain items, washboards, rags and flour barrels, were sold to the public on a very restricted scale in the late, nineteenth century. The second major attempt of this sort to secure profit from convict labour came with the establishment of a binder twine industry at Kingston Penitentiary in 1895.
Binder twine production was first considered for Kingston Penitentiary because of its profitable operation in the United States and at Ontario's Central Prison. It was argued, moreover, that the price of binder twine was being dictated by a combination and that the prison production of that commodity would greatly benefit Canada's farmers. In fact, the Kingston Penitentiary operation did encounter some opposition from certain of the large firms engaged in the business. Yet, the real difficulty came in the sale of the finished product. The federal Conservative administration in 1895 and 1896 attempted to sell the outputs of those years through agents hired by the government. Under the Liberals this policy was reversed and the prison binder twine was disposed of at the going price through an established dealer contracted to the task. This arrangement and the stress of the Liberal government upon avoiding unfair competition with private business interests, eliminated the possibility that prison production might be a genuine boon to farmers.

Although the manufacture of binder twine at Kingston Penitentiary continued through the remainder of the late nineteenth century, its success was mixed. One of the avowed aims of the undertaking was to teach convicts a useful trade. Outside the prison, however, employment in the business was largely restricted to women and children. The warden of Kingston Penitentiary painted a glowing picture of the profitability of the binder twine industry in 1900. Yet, for the two Inspectors administering the penal system in 1909 the
binder twine operation held the lesson that "it is not feasible to introduce industries that will necessitate sales on the open market." Despite some successes, the problem of disposing of production and the argument against prison competition with private interests both limited the usefulness of the sale of prison items to the public as a productive penitentiary industry.

The manufacture of articles for government departments was the best accepted successor to the contract labour system as a source of prison income. This approach held several advantages. It had the potential of being a significant source of revenue. In addition, sales of items to the government were less open to the charge of unfair competition with private interests. Finally in theory there would be little difficulty in disposing of the items sold to government departments.

At several points in time in the post-Confederation period Justice Department officials promoted government work for penitentiaries. Several problems were encountered in the process. The most serious of these was a reluctance on the part of other government departments to turn over work contracts to federal prisons. In certain instances substandard workmanship was the cause of this hesitation. A desire to make political use of contracts may also have been a factor.

Government work was performed by convicts in the late nineteenth century. Politicians and prison officials were in general agreement by 1900, too, that such industry was an
ideal way to earn prison revenue. Nevertheless, this approach to prison employment was not firmly established in practice by the turn of the century because the amount of government work supplied to prisons was inadequate.

The only significant production for government departments was undertaken at Kingston Penitentiary. The pre-Confederation Inspectors had urged public works employment for inmates of that institution, but government work was not introduced on any scale until the depression of the 1870s. Amid a declining demand for contract labour, Warden Creighton of Kingston Penitentiary pressed for contracts to make items for federal departments. In 1876 Creighton gained the energetic support of Edward Blake, then Minister of Justice, in his quest for government orders. A series of contracts followed, entailing the making of clothing and supplies for the N.W.M.P., the fashioning of mail bags, and the production of clothing and sundries for the Militia Department and Indian Affairs. Warden Creighton was properly enthusiastic about this new industry, declaring in 1878 that "...we are prepared to undertake, for the Departments of the Government, almost any kind of work" in a variety of areas. "Rest assured", this economy-minded chief officer informed Inspector Moylan, "I will do my best to make the Penitentiary pay its way if the work is furnished to me."

Despite the scale of government work in the late 1870s this branch of production declined at Kingston in the decades that followed. By 1890 only the Department of Indian Affairs
was still placing orders. Several factors contributed to this reversal. The North-West Mounted Police lodged a number of complaints about the quality of uniform clothing produced at the prison before they withdrew their patronage in 1885. Over six hundred of some 735 greatcoats made for the militia in 1881 were rejected because they lacked the type of lining that had been ordered. In 1883, two hundred coats were returned from the militia because of a variation in the colour of the cloth. Apparently Kingston Penitentiary did not receive many more orders from this source.

Complaints about workmanship played their part in the reduction of government work. The nature of the criticisms suggests that penitentiary officials rather than convict workers may have deserved much of the blame. However, prison authorities suspected additional motivations on the part of the departments who declined to patronize the penitentiary. As Warden Creighton confided to one correspondent after an "unpleasant and unprofitable" experience with militia greatcoats:

My private opinion is that the Minister of Militia does not approve of giving this Penitentiary any Government patronage, hence I have very little hope of obtaining any contracts from his Department.

Inspector Moylan more charitably asserted that there were "beyond doubt...cogent and sufficient reasons" why he found it so difficult to gain orders from government departments. It can be surmised that the desire to make good political use of the contracts at the government's disposal may have been among those reasons.
John S.D. Thompson was one of a succession of Ministers of Justice concerned with establishing productive prison industry. One possibility, which he noted in the Commons in 1888, was the employment of convicts on public works. Little action resulted on this. In 1893, however, shortly before his death, Thompson did initiate inquiries about manufacturing articles for the government. Inspector Stewart brought new pressure to bear for government work upon taking up his office in 1895. The Conservative ministry of the day approved Inspector Stewart's proposal to further the prosecution of government orders at Kingston Penitentiary, although the cabinet advised him that "this should be attempted gradually—[there should be] no publicity which might defeat it..." The Minister of Justice at that time, Charles Hibbert Tupper, himself discussed the possibility of militia orders with the minister responsible for that department.

Much of the momentum towards government business for Kingston Penitentiary was lost with the change of federal administrations in 1896. A few minor contracts were given in the last years of the century in addition to the long standing Indian clothing assignment, but this was all. Inspector Stewart later recalled that problems had been encountered under the Conservative regime in 1895. Despite the enthusiasm of several ministers for penitentiary production, orders could not be placed until existing contracts expired. "Before anything could be done", the Inspector lamented, "there was a change in government" and policy with respect to penitentiaries had to be reformulated.
There were many reasons why prison officials and politicians were concerned to provide convict employment in addition to those jobs required for penitentiary operation. The desire to gain revenue from inmate labour was the most compelling motivation. A number of forms of productive industry were adopted at different times in the late nineteenth century. In most cases difficulties were encountered in their operation. The performance of work for government departments was open to fewest objections in that day. Yet, this form of productive labour, too, was not fully or easily implemented.

Productive industry at the penitentiary underwent a significant evolution in the late nineteenth century from early emphasis on contract labour to a mixed and uncertain embrace of public sale and government work. A constant factor in this transition was the influence of the aim of economy. It was important to contemporaries that some form of labour be instituted at penitentiaries allowing convicts to defray at least part of the cost of their maintenance. In many instances the thrust towards frugality worked at cross purposes with efforts to reform and to punish the convicts. Work that was productive, for example, was not as punitive as penal unproductive labour. Similarly, some industrial pursuits chosen for their profitability, like binder twine making, provided little training of value for those prisoners employed in them. The aim of economy and the related concern to find lucrative prison industry were two significant influences upon the late
nineteenth century penal system. They affected the system in conjunction with other internal and external demands. In the company of other, sometimes contradictory goals, the aim of economy and the persistent search for productive industry helped to make the penitentiary system what it was in the first few decades after Confederation.
Chapter Six: Footnotes


2. Ibid., pp. 196 - 200.


5. For examples, see: Canada, House of Commons, Debates 1893, p. 314; Canada, Sessional Papers 1874, Vol. 6, S.P. no. 42, p. 7.


7. For examples, see: Ibid., pp. 218, 1597; Canada, House of Commons, Debates 1867 - 8, p. 443; Canada, House of Commons, Debates 1888, p. 1686; Canada, House of Commons, Debates 1890, p. 3638; Canada, House of Commons, Debates 1884, p. 999.


16. For examples, see: Canada, House of Commons, Debates 1883, p. 756; Canada, House of Commons, Debates 1886, p. 893; Canada, House of Commons, Debates 1888, pp. 1022 - 1023; Canada, House of Commons, Debates 1889, pp. 1597 - 1598; Canada, House of Commons, Debates 1890, p. 3638.


P.A.C., Department of Justice, A2, Vol. 53, Z.A. Lash to J.G. Moylan, 10 April, 1882; ibid., J.G. Moylan to Z.A. Lash, 13 April, 1882.

See Chapter Seven below, p. 324.

For example, see: C.S.C., Memorandum Book, 1860 - 1874, T.J. O'Neil at Kingston Penitentiary, 10 November, 1868.

See Chapter Two above, p. 91.


See Chapter Seven below.

P.A.C., Solicitor General's Department, Vol. 139, Part 1, [Douglas Stewart], Memorandum re Employment of Convicts.


Canada, Sessional Papers 1887, Vol. 4, S.P. no. 4, p. 5.


37. Ibid., p. 37.

38. See, for example: P.A.C., Solicitor General's Department, Vol. 27, File 1-18-6, [Warden Platt], Prison Labour vs. Prison Routine, p. 1.


40. Ibid.


44. Ibid., p. 16.


46. Ibid., p. 37.

Two years later, in 1872, the Board of Directors recommended the renewal of expired contracts for labour at Kingston Penitentiary but at higher rates. Canada, Sessional Papers 1872, Vol. 6, S.P. no. 75, p. 6.

P.A.O., Blake Papers, Scrapbook and Newspaper Clippings, Canadian Labor Union Third Annual Congress, St. Catherine, Catheines, August, 1875. See also Harry Clare Pentland, "Labour and the Development on Industrial Capitalism in Canada" (Ph.D. dissertation, University of Toronto, 1960), pp. 36 - 37.  


P.A.O., Annual Report of the Prisoners' Aid Association for the Year 1892, p. 39.  

Logan, Trade Unions, pp. 67 - 68.  


In all probability the contractors were able to insist on the full terms they had contracted for. By that time the Liberals, not bound to the termination of contract labour, would have been in power.  

Canada, House of Commons, Debates 1875, p. 641.  

Canada, House of Commons, Debates 1882, p. 780.  

Canada, Statutes 1883, Chapter 37, Sec. 50, ss. 2.  

Canada, House of Commons, Debates 1884, p. 1000.  


This competition is discussed in the following: Bernard Ostrey, "Conservatives, Liberals and Labour in the 1870s", C.H.R. 41 (June, 1960), pp. 93 - 127; Bernard Ostrey, "Conservatives, Liberals and Labour in the 1880s", C.J.E.P.S. 28 (May, 1961), pp. 141 - 161. In the second article, the author notes that J.A. Macdonald expressed sympathy with labour's desire to prohibit prison labour, but the author does not mention that the contract labour system was, in fact, terminated federally in the decade of the 1880s.  

I owe this suggestion to M.S. Cross, Dalhousie University.  

See, for examples: C.S.C., Kingston Penitentiary, Warden's Letterbook, 1867 - 1870, Ferres to Evans, 17 July,
1869, p. 329; ibid., Ferres to Drennan, 11 September, 1869, p. 420.


Canada, House of Commons, Debates 1886, pp. 1075 - 6.

Canada, House of Commons, Debates 1895, p. 3147.

C.S.C., Penitentiary Inspector's Minute Book, 1885 - 1894, Moylan at Dorchester Penitentiary, 29 September, 1887, p. 204.

C.S.C., Kingston Penitentiary, Warden's Letterbook, 1876 - 1879, Creighton to Moylan, 20 October, 1876.


Canada, House of Commons, Debates 1895, pp. 3145 - 3148.


Canada, Sessional Papers 1900, Vol. 13, S.P. no. 18A.


See Chapter One above, p. 46.


Ibid.


Canada, House of Commons, Debates 1888, p. 136.


Ibid., C.H.T. to Power, 22 July, 1895.


Ibid., D. Stewart and G. Dawson, Memorandum for the Minister of Justice, 22 October, 1909.
CHAPTER SEVEN

THE CONVICT PENITENTIARY REALITY

The late nineteenth century penal system was shaped by many expectations and influences. The end result for the prisoner was an institutional environment with a punitive thrust and reformative pretensions. The reality of penitentiary life did not always accord with the ideal enunciated by upper level officials. The impact of confinement was uneven too. Certain categories of inmates—the insane prisoner, the female offender and the Indian convict—experienced special problems in the penitentiary. Prisoners adjusted to confinement in diverse ways, but for most inmates the compelling preoccupation was to regain freedom. In effect, the convict reacted to the penitentiary experience by selecting a path to liberty. The lust of prisoners to be free of the penitentiary was a telling commentary on the nature of life in that institution.

Much of the content of the daily life of the convict stemmed from the penitentiary's institutional character. The institution was a nineteenth century product devised to perform a variety of social tasks. In this context the penitentiary had much in common with the lunatic asylum, the reformatory, the industrial school and the poor house in its day. All sought to isolate their inhabitants from the outside
world within an environment characterized by order and regularity. This approach to social problems owed much to the belief that the insane, the poor and the criminal led erratic, undisciplined lives which could be altered by the construction of an ideal social structure apart from society. More practically the institution was also suited to subjecting large numbers of persons to a common régime. There were similarities in the operation of the penitentiary and the regimentation of the army or the discipline of the factory. As a nineteenth century institution of social control confining inmates drawn largely from the lower class, the penitentiary was part of a wider contemporary phenomenon.

A major thrust of the penitentiary was toward a controlled environment. Isolation of the convict from the outside world and from his fellow prisoners was essential to the creation of such a setting. Prison architecture was premised on the need to keep inmates separate from contaminating influences. The individual cells, cell blocks and in many cases stone walls, that were constructed to prevent escape, also limited the flow of outside information and persons into the prison. Regulations bolstered this control. Inmate correspondence was censored as were journals or periodicals addressed to prisoners.

Visitors to the penitentiaries of the system were restricted but not eliminated. Relatives or friends of well-behaved inmates were customarily permitted access at set intervals. In addition the curious were allowed to sightsee
penitentiaries for a small gate fee. Such persons could be numerous. In 1891 the warden of Kingston Penitentiary reported that one hundred and six persons had toured his institution in excursion parties in a single day. All visits were limited to fixed hours. Those who came were barred from bringing many specified items to convicts. The contact of the convict with those outside the prison walls was minimal, particularly when an inmate had no one who cared to visit him. As one warden declared with finality in 1869, "so long as a Convict [sic] is confined here I regard him as dead to all transactions of the outer world."3

Within the penitentiary, architectural arrangements were intended to further the separation of convicts. When adequate accommodation was available the single cell was the basic housing unit of the prison. Inmates spent much of their time in their cells, cut off from their fellows. The rule of silence was framed to ensure the isolation of inmates by day when they were engaged in congregate labour. Other devices were instituted on the same ground. The lock step was an early feature of Auburn discipline designed to prevent the indiscriminate mingling of convicts. Under this rule prisoners marched from place to place in silent single file with one arm on the shoulder of the man in front and eyes averted to the side. One variety of this technique was applied to Prison of Isolation inmates at Kingston Penitentiary in the late 1890s. These men were ordered to march silently in single file at set distances apart with arms folded.4 In the
early 1880s cell meals were introduced at all the institutions of the system except Kingston Penitentiary. The unusually diminuitive cells at Kingston Penitentiary exempted that institution from the new practice for a time. The change was effected elsewhere, in part because of a desire to eliminate the misconduct and talking common when prisoners ate together in the dining hall. 5

W. David Lewis, a student of the ante bellum American prison system, has noted that "undeviating regularity" in New York State's Auburn prison system "eroded the inmate's very sense of identity and individuality." 6 Such regularity was prominent in the post-Confederate Canadian penitentiary environment as well. In common with the inmates of many contemporary institutions, convicts wore uniform clothing. For much of the late nineteenth century period convict garb was brown and yellow. The two colours ran vertically, one half brown and the other in contrasting yellow. In 1889 three new grades of uniform were introduced to correspond with conduct classification levels. The three separate cloths employed from that time were red, black and grey check, black and grey check, and plain grey. 7 The three uniform system prevailed until the late 1890s. By 1896 the expense of using several different types of material led Inspector Douglas Stewart to champion the return to a single uniform for all inmates. Two years later his recommendation was acted upon. A new standard cloth of grey squares surrounded by red was selected. 8 Regardless of the design of material
adopted through this period, the similarity of convict clothing served to deny the individuality of prisoners.

Regularity prevailed in penitentiary diet. The 1870 and 1888 penitentiary regulations prescribed a single bill of prison fare to be applied throughout the system. While it is doubtful that this degree of uniformity was achieved, the different penitentiaries did serve the same types of foods. Moreover, the meals provided within each institution exhibited a monotonous sameness and repetition. The comparison of several penitentiary diets reveals many common denominators. Prisoners received meat or fish each day, generally at noon. Bread was an ubiquitous menu item as was tea or coffee. Breakfast and supper were generally light meals, with the latter often featuring soup. Potatoes were a staple served in conjunction with other vegetables in season. Although these foods were quite ordinary, several features of the prison diet were striking. In quantity, bread and potatoes composed the bulk of the nourishment offered the prisoners, while vegetables other than potatoes were a minor portion of the diet. The range of food items was also restricted. Penitentiary regulations in 1870 prescribed a daily menu encompassing fourteen different items; eight foods were included in the standard prison menu decreed in 1888. (See Table 7-1.)

Prison authorities generally advanced positive claims about the quality of food provided. In 1899 one surgeon declared, probably with cause, that "the dietary of this prison [Dorchester Penitentiary] exceeds that of the average
TABLE 7-1
PRISON DIETS PRESCRIBED IN 1870 AND 1888

Penitentiary Dietary, 1870

Males.

Breakfast:—
1 pint of Pea Coffee sweetened with ½ oz. of Brown Sugar,
½ lb. Brown Bread, and
½ lb. White Bread or ½ lb. Potatoes instead thereof,
½ lb. Beef, Mutton or Pork (with Beets and Vinegar
twice a week.)

Females.
1 pint of Tea sweetened with ½ oz. of Brown Sugar,
½ lb. White Bread,
½ lb. Brown Bread.

Males.

Dinner:—
½ Pint of Soup,
½ lb. White Bread (or 3/4 lb. Potatoes instead thereof),
½ lb. Brown Bread,
½ lb. Beef, Pork or Mutton.

Females.
1 pint of Soup,
½ lb. Brown Bread,
½ lb. White Bread, or ½ lb. Potatoes instead thereof,
3/8 lb. Beef, Mutton or Pork.

Males.

Supper:—
10 oz. of White or Brown Bread, as may be ordered,
1 pint of Coffee sweetened with ½ oz. Brown Sugar or,
instead thereof,
1 pint of Mush,
½ gill of Molasses.
<table>
<thead>
<tr>
<th>TABLE 7.1 (continued)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Females.</strong></td>
</tr>
<tr>
<td>6 oz. White Bread,</td>
</tr>
<tr>
<td>1 pint of Tea sweetened with ½ oz. Sugar, or instead thereof,</td>
</tr>
<tr>
<td>1 pint of Mush,</td>
</tr>
<tr>
<td>½ gill of Molasses,</td>
</tr>
<tr>
<td>Vegetables in their season; with Pepper, Salt and Vinegar.</td>
</tr>
</tbody>
</table>

**Penitentiary Dietary, 1888**

**Breakfast.**

Cold Meat, 4 ounces, without bone.
Bread (white), 12 ounces.
    " (brown), 1 ounce
Coffee (pea), 1½ pints.
Sugar, ½ ounce.

**Dinner.**

Meat, 7 ounces, without bone.
Bread (white), 8 ounces.
    " (brown), 1 ounce.
Potatoes, 16 ounce.
Soup, 1½ pints.

**Supper.**

Bread, 12 ounces.
Tea, 1 pint.
Sugar, ½ ounce.

**Sources:** Rules and Regulations, 1870; Rules and Regulations, 1888.
farmer in this country, and is much better than our honest labouring man is able to furnish his family." Periodically, convict complaints about the food were found to be justified. Yet such lapses as musty flour, salt unfit for use, brackish tea, and meat in large part gristle, were apparently not the major shortcoming of prison food. The lack of menu variety was, instead, a more prominent focus of convict criticism.

As one Kingston Penitentiary warden admitted at the end of the century, "few complaints were made during the year as to the dietary or character of food furnished, but I am aware that frequent loathing is produced by the continuous and monotonous round of soups and boiled meats, and the unbroken absence of roast and relish."

After arriving at the penitentiary the convict soon learned he was entering a different world. Any personal belongings the prisoner had brought with him were taken away to be stored until his release. The surgeon inspected each incoming prisoner as he arrived. If free from disease the newcomer was registered, shaved, shorn of most of his hair, given a bath, and provided with distinctive prison attire. Finally, the newly arrived prisoner was read the rules and regulations that were to govern his life through the length of his term. A Manitoba Penitentiary up to 1890 the general process of erasing the incoming felon's former identity was carried one step further. There he was assigned a number and his name was "lost sight of, except upon the prison records". At every penitentiary a new man.
finished his initiation as a convict outwardly little different from his fellow inmates.

The prisoner's clothing and diet both bore the mark of sameness that characterized much of penitentiary life. Yet, the epitome of the regularity of that existence came with the prison routine, the schedule of activity in confinement. The timetables of the different prisons varied in specific content but were generally similar in their strict allotment of time for each phase of the day's events and in their repetition. The daily schedule was basic to the creation of an ordered prison environment.

A typical pattern of life for convicts was that in force in Manitoba Penitentiary in 1879. There, in winter, a 6:20 wake up bell signalled that it was time to rise, wash, dress and make the beds. Ten minutes later those working outside marched off to their labour while tasks of prison sanitation and cleaning were performed by other inmates. At 7:30, on the sounding of a bell, prisoners paraded by threes to the dining hall for breakfast. Beginning in the 1880s meals were eaten in the individual cells. Prisoners were allowed only ten minutes for breakfast at Manitoba Penitentiary; the same was true at Kingston Penitentiary in the 1880s. The warden there found that to be ample time.

In the late 1870s breakfast at Manitoba Penitentiary was followed by a fifty minute wait in the cells. Then a bell summoned the prisoners to their work, or to sick parade if
they had medical complaints. Twenty minutes at noon were set aside for dinner, the day's most substantial meal. For a period of forty minutes after dinner, school was held for those convicts privileged to attend. Between 1:30 and 5:10 the prisoners once again laboured at their assigned tasks. By 5:30 supper and night buckets had been taken into the cells and the bell was rung for locking up. At 6:00 lights were turned down. A typical day had ended in a monotonous Monday to Friday cycle varied only by occasional holidays from work.

On Saturdays at Manitoba Penitentiary the cleaning and shaving of the inmates was substituted for the customary afternoon labour. Sunday represented a greater departure still from the norm because it was a day of rest from the usual weekly toil. Chapel for Catholics was held at 8:30 in the morning and for Protestants at 1:40. At 4:30 on Sundays the bell rang for locking up, one hour earlier than usual. At other penitentiaries the difference in locking up times was apparently greater. As Sir John Thompson, Minister of Justice, noted in 1890, "especially between Saturday night and Monday morning, and in winter... there are long hours of confinement." For convicts the Sunday schedule meant the unpleasant experience of extended isolation in individual cells.

Prisoners at each penitentiary faced a closed and limited environment. In that situation mundane aspects of life were particularly influential in determining the impact of imprisonment. In the late nineteenth century penal system a number
of commonplace features of the prisoner's existence combined
to make confinement a disheartening and oppressive experience.

The cell was of critical importance to the convict be-
cause it was here that he was compelled to spend much of his
time. From the time of Confederation the cells at Kingston
Penitentiary were judged to be too small. A survey of
American and Canadian prisons released in 1867 by two American
penal reformers revealed that the cells at Kingston Penitenti-
iary were "the smallest we met with anywhere, being only six
and two-third feet long, two and a half wide and six high."
"This", the report declared, "is entirely too diminutive a
space in which to immure a man, however guilty, during one
half of his prison life." In 1869 the Canadian Directors
of Penitentiaries noted in a similar fashion that the inmates
of Kingston Penitentiary were "too long pent up in their cells".
The Directors condemned this situation in strong terms:

To be enclosed in so contracted a space for nearly
twelve hours during the summer months, and for over
twelve hours during the winter, is bad for the convicts physically, and bad for them morally.

Despite the coffin-like dimensions of the Kingston Peniten-
tiary cells, "not one inch" wider "than the width of their
bed, and in the length only about a couple of feet to spare", work on cell enlargement was not commenced at that insti-
tution until the decade of the 1890s.

The cells at the other institutions of the system were
roomier than those at Kingston Penitentiary and were apparently
regarded as more in keeping with the dictates of humanity.
At St. Vincent de Paul Penitentiary cell dimensions varied.
An 1879 report noted that one hundred and eight of the convict compartments there were eight feet long and eight and two-thirds feet high, but only three feet wide, and fifty seven cells had a mere two and one-half foot width. When British Columbia Penitentiary opened, its cells measured a more spacious eight feet by four feet by eight feet high. Dimensions were grander still at Dorchester Penitentiary with a height of eight feet, length of nine feet, nine inches and a width of four feet four inches. The enlargement of cells at Kingston Penitentiary to four feet by eight feet under normal circumstances, suggests that was the size generally deemed desirable in the system. These roomier dimensions could have meant but a marginal improvement to prisoners facing dreary hours of confinement in what was still a small, closed space.

The cell furnishings at most penitentiaries offered little that was cheering to the inhabitants. As a rule such furnishings were sparse. A bed of some sort, mattress, pillow and blankets were customary. Bed sheets were introduced at Kingston Penitentiary in 1870 and apparently were provided at the later institutions as they opened. Each convict was supplied with a night bucket. In cells constructed by the end of the nineteenth century this item was replaced by more modern water toilet facilities. Additional cell items varied. At St. Vincent de Paul in 1879 cell contents also included a lamp, a stool and a tin cup. Prisoners at British Columbia Penitentiary were given a tin water pail
along with a lamp and stool. Mirrors were normal cell equipment at Kingston Penitentiary by the end of the century. All cell furnishings were simple and functional.

On his tours of federal penitentiaries, Inspector James G. Moylan sometimes remarked on features that made cells more appealing to their occupants. At Dorchester Penitentiary in 1886 the Inspector noted the "little pictures" convicts had been allowed to put up on cell walls, contributing to the "bright and cheerful appearance" of those compartments. Here, apparently, the dictates of humanity had allowed a small departure from the general thrust of the penitentiary toward the suppression of individuality. At Manitoba Penitentiary Moylan found that, "the trim and uniform make up of the cells, and the brightness of the grim bars and brasses, give a cheery look to those usual [sic] dismal abodes." These claims, however, were inflated. Cells were characteristically dark, often dank and generally cheerless. As Inspector Moylan himself recorded following a tour of Kingston Penitentiary in 1889:

"I made a careful inspection of the cells. The greater number of them are so dark it is very difficult to examine their condition..."

Prisoners spending so much time confined alone undoubtedly welcomed the opportunity to get out of their cells during the day. Employment at congregate labour was the main occupation of prisoners outside their individual compartments. When work was not available inmates faced longer periods in their cells. When little prison construction was in progress,
penitentiary wardens often found it difficult to keep their charges occupied. Compounding this problem was the seasonal nature of prison labour. Farm work and other outside labour kept many prisoners busy in the temperate months but the winter was often a time of idleness.

Work, however onerous, provided some relief from cell confinement. Yet, hard labour was not the convict's favoured alternative to isolation. At some prisons school attendance was one means of escaping part of the labour required of convicts. Surgeons noted, too, the widespread phenomenon of feigned illness, a device employed to evade work.

Hard labour had its full share of disagreeable features. Generally the deterrence of work stemmed from its demanding and often monotonous character. In some cases, however, working conditions played their part. At Dorchester Penitentiary in 1891 workers in the shoe and tailor shops had to tolerate "disagreeable and unwholesome odours" from the laundry. "While the washing lasts" it was reported, "clouds of steam laden with stench fill the whole building". Workers in the tin shops at Kingston Penitentiary in the same period were sorely tried by a "deafening" din from "hammering on galvanized iron". Work was sufficiently distressing without these additional difficulties.

Prisons made varying provision for convict exercise. At Kingston Penitentiary in the early 1870s regular exercise of the convicts was limited to a one-hour walk on Sunday. By the 1890s at Dorchester Penitentiary certain prisoners
employed at tasks involving considerable standing were permitted daily walking exercise. Inclement weather or inadequate facilities prevented inmate exercise on occasion. Nevertheless the need for exercise was recognized.

Although much of prison life was bleak, inmates were allowed a few minor indulgences. Major holidays were observed with extra rations and a break in the regular routine of work. On Christmas Day the custom was to provide a special meal. In this tradition the convicts at Kingston Penitentiary in 1886 were treated to a feast of oysters and turkey. The warden later had to justify this particular menu to higher authorities. The Christmas spirit had its limits.

Holidays often brought a relaxation of the rules and permission for inmate games or amusements. At Dorchester Penitentiary in 1887 prisoners put on a Dominion Day show to the delight of assembled guests. The entertainment was opened by "a speech of considerable ability" delivered by one of the men. Through much of this period convicts were allowed Christmas gifts. In 1898, however, this practice was discontinued at Kingston Penitentiary, most probably because of complaints voiced the previous year about convict luxuries. Prisoners were, on occasion, permitted to see concerts performed by travelling companies. The Mrs. Agnes Thompson Concert Company and the Jubilee Singers specializing in "plantation melodies", brought some variety into convict routine at Kingston Penitentiary in the early 1890s. These were rare special concessions to the human needs of the prisoners.
Conditions of health and sanitation, on the other hand, were central to the day-to-day well-being of the inhabitants of the penitentiary. Threats to health were seldom absent from the late nineteenth century prison. Typhoid fever and typhus wracked Kingston Penitentiary at the time of Confederation. That institution and other penitentiaries, too, were periodically struck by typhoid in the years that followed. Influenza and pneumonia were seasonal visitors to the penitentiary. Early in 1890, "La Grippe", a virulent form of "flu", struck every federal prison in turn.

Respiratory diseases were common and deadly in the penitentiary. In 1884 the surgeon at St. Vincent de Paul reported that, "the greater number of deaths that have taken place in this Penitentiary since its opening were due to consumption." In a similar vein the surgeon at Dorchester Penitentiary noted in 1887 that "as usual diseases of the respiratory system are by far the most fatal in this prison..." The endemic cases of diarrhoea in penitentiaries of the day were more a discomfort than a threat to life. Diarrhoea was declared to be "chronic" and "quite independent of climatic conditions" at St. Vincent de Paul Penitentiary in 1900 but it was prevalent at the other institutions of the system as well.

Widespread as sickness was in the penitentiary, the state of health may not have been any better in society as a whole. Lack of adequate data prevents a reliable comparison. Yet, many penitentiary officials claimed at the time that prison
sanitation was superior to the norm outside the prison wall. There was likely some ground for those assertions. Each institution had a surgeon on the staff whose efforts were directed toward maintaining inmate health and proper sanitary arrangements. Medical treatment and drugs were available to convicts as they required them. Inmates were vaccinated at St. Vincent de Paul on several occasions when small pox was raging in Montreal. As a result the prison was kept free of epidemic.  

Despite the best efforts of the surgeon, disease did take its toll in the penitentiary. One popular explanation of that fact stressed the initial poor health of prisoners. Many convicts, it was claimed, were "vitiated by dissipation and disease" before confinement. A disproportionate number of prisoners were of low social and economic standing (See Chapter Three) and, consequently, had limited access to many sources of physical well-being. Initial poor health was probably a factor in the penitentiary sickness of a number of inmates.

On the other hand, several features of penitentiary life contributed to ill health. A number of federal prisons were plagued at different points in time by polluted water supplies and inadequate sewage disposal. For both Saint John Penitentiary and British Columbia Penitentiary, waste products from slaughter houses proved to be the cause of contaminated drinking water. Impure water drawn from Portsmouth Bay led to typhoid fever in Kingston Penitentiary and the surrounding
area. Simply because of their scale of operation, penal institutions were open to serious sanitation problems.

Other threats to health were products of the penitentiary environment. Reflecting contemporary wisdom, one St. Vincent de Paul warden blamed poor ventilation for sickness prevalent among workers in the prison blacksmith shop. The real cause was more likely the highly unsatisfactory privy arrangement that contributed to the noxious odours which the warden had noted. After several years' operation "catarrhal affections" were found to be a problem in Kingston Penitentiary's Prison of Isolation. It was decided that dust in the cells in which prisoners worked and slept was the culprit. In general the dank and often cold and dark cell environment typical of the penitentiary was conducive to the spread of respiratory diseases so destructive in that setting.

Penitentiary officials frequently condemned members of the "criminal class" for their lack of cleanliness. Ironically in this context, adequate prison bath facilities were only gradually provided in the post-Confederation period. One Director of Penitentiaries visiting Kingston Penitentiary in May, 1868, noted with consternation that the inmates of that institution had not had a bath since the previous summer! Compounding that lapse, clean sheets had not been issued to some of the convicts since the previous November. The Directors inspecting St. John Penitentiary that same year found "no provision whatever for the regular bathing of the convict."
Change in this area came slowly. In 1883 Dorchester Penitentiary finally gained the facilities to allow its inhabitants regular bathing. That same year the warden of St. Vincent de Paul noted that his charges were obliged to bathe twice a month. In 1886 six new tubs were installed at Manitoba Penitentiary to provide "proper facilities and space for taking the baths prescribed by the rules". The longstanding failure to ensure the regular bathing of prisoners was one significant shortcoming in the sanitary arrangements of the penal system.

Disease was not the only menace to a convict's well-being. The Penitentiary Act and the coercive power of the state gave prison officials considerable authority over the lives of convicted felons. The hierarchical organization of the service and the requirement that all reports against prisoners be heard by the warden, imposed limitations on an officer's freedom of action. Yet, the abuse of power was possible and did occur on occasion. Few staff officers would have condoned some of the incidents which came to light in the period. The Catholic Chaplain at St. Vincent de Paul, for example, charged the Deputy Warden in 1875 with "disgusting, immoral conduct with certain convicts". Several instances of insults and assaults inflicted upon inmates also occurred. Another source of the mistreatment of prisoners, with which many officers could agree, was more threatening. The warden of Kingston Penitentiary pointed out in 1877 that when an escaped convict was recaptured
"the feeling on the part of the Officials is then strong against him". Staff hostility toward certain convicts could facilitate abuses that might not otherwise be condoned. In what may have been an incident of this sort, one Kingston Penitentiary prisoner complained that his arm had been injured by officials in an escape attempt. The warden judged this complaint unjustified. Available evidence suggests that incidents of this sort were rare. However, this lack of testimony is not conclusive; abuses of this sort would not, by their very nature, have been publicized.

In 1897 the incoming Laurier Liberal administration appointed commissions to investigate the state and management of several of the penitentiaries of the system. The commissioners inquiring into matters at St. Vincent de Paul Penitentiary found a shocking state of affairs. A range of abuses were discovered at that institution. One, in particular, seemed striking evidence of the inhumane treatment of prisoners. The commissioners contended that the warden of St. Vincent de Paul, Telesphore Ouimet, had been guilty of serious lapses with respect to convict mail. Hundreds of letters written to convicts and by convicts were found undelivered, "scattered in and about the Warden's vault and other receptacles in his office". This state of affairs was apparently part of a broader negligence in dealing with prison correspondence. "There is nothing perhaps, to which the average convict, or at least the better class of them, attaches more importance" the commissioners argued, "than the
correspondence...which passes between them and the relatives or friends outside." Yet, the inquiry found that the prison officers responsible for transmitting convict letters "have been as callous in their treatment of the unfortunates under their charge as they well could be."

The report that convict mail had been withheld caused some angry comment in Parliament. Though convicts were "paying the penalty of their crimes", one member declared in 1898, they were "not usually treated as beyond the pale of humanity, but are supposed to have the same affections as people who are free." The non-delivery of letters "without any reason at all" was a disgraceful situation, it was charged. The failure to pass on correspondence at St. Vincent de Paul was an extreme case of deprivation of the prisoners. The warden offered little excuse; his effort was to place the blame on his clerk. The latter in turn pleaded carelessness.

This incident is an example of an abuse of power that could occur at a penitentiary for years without higher authorities being the wiser. Interestingly, convict mail was selectively interrupted at other penitentiaries through the same period during which Warden Telesphore Ouimet at St. Vincent de Paul had been so grossly negligent. Beginning in 1884 and continuing through the 1890s certain prisoners at Dorchester Penitentiary were deprived of letters each year as a punishment. By the summer of 1897, at a time when the results of the St. Vincent de Paul inquiry were undoubtedly beginning to emerge, Inspector Douglas Stewart apparently
ordered the wardens of the system to distribute all convict mail each day. It would seem that this had not been the previous practice.

Although the impact of imprisonment varied with each individual, there were many common experiences. Certain groups of inmates, however, shared conditions of confinement different from the norm. Indian prisoners were more prone to disease in the penitentiary than their fellow inmates. These native convicts were present in largest numbers in Manitoba Penitentiary in this period. The surgeon there repeatedly reported the ravages of scrofula and consumption among the Indian prisoners. Some were wholly disabled but many other Indians and half-breeds "suffering from scrofula and allied chest troubles" were kept at work through the administration of medicines. The acting surgeon at British Columbia Penitentiary in 1888 confessed himself at a loss to know how to deal with the "prevalence of scrofula and incipient phthisis among the Indian prisoners" at his institution. Inspector James G. Moylan identified a "liability to languish and die among the Indians who have been imprisoned in Manitoba and British Columbia Penitentiaries." Many such prisoners were released just prior to death, as was the custom when a convict was incurably ill.

In light of the destructive impact of confinement upon Indian health it can be concluded that a penitentiary sentence represented cruel and unusual punishment for native people in the late nineteenth century. "The Indians, more
especially, can scarcely spend the full period of the shortest sentence, for which they can be sent to the penitentiary, and be found healthy and free from scrofula at the time of their liberation", a Kingston Penitentiary surgeon declared in 1868. Officials recognized that confinement exacerbated Indian health problems. Yet ultimately a racial explanation of Indian disease was adopted, an explanation that removed much of the responsibility for native sickness from prison conditions. The belief was that Indians as a race were "not able to withstand the depressing effects of confinement so well as" others. In some cases, but not all, Chinese and negro inmates were claimed to share a racial susceptibility to penitentiary disease with the Indians. The assumption was apparently that such non-white races shared weak constitutions as a racial characteristic. Indians in the late nineteenth century were more susceptible than whites to many diseases. Prison surgeons, too, did all they could to aid stricken native prisoners. Nevertheless contemporary stress on the racial origins of Indian disease encouraged a degree of fatalism among white authorities faced with numerous unhealthy or terminally ill native prisoners. This undoubtedly discouraged efforts to alter aspects of prison life dangerous to health.

The insane were a second group of prisoners who experienced unusual conditions in confinement. As a result of their mental condition these unfortunates were subject to special treatment that worked unique hardships upon them.
Through most of the late nineteenth century prisoners of unsound mind were confined within the penitentiary, despite the view of many officers that a regular asylum was the proper repository for them. Inadequate facilities figured prominently among the woes of lunatics in prison.

The chief centres for the treatment of the convict insane after 1867 were first, the Rockwood Asylum and then, from 1877, Kingston Penitentiary. All penitentiaries housed unbalanced prisoners from time to time but the general practice was to transfer serious cases of lunacy to Kingston. Manitoba Penitentiary was the major exception. Prior to the opening of Stony Mountain Penitentiary in 1877 non-criminal insane and convict lunatics were both housed at the Lower Fort Garry Prison under an arrangement with the province. With the completion of the new Manitoba penitentiary the arrangement with the province was continued. Non-criminal lunatics were housed by the federal government for a per capita daily fee paid by Manitoba, although it is not clear whether Lower Fort Garry or the new prison was used for this purpose. In the mid-1880s non-criminal lunatics were apparently shifted to a new Manitoba asylum at Selkirk. By the end of that decade of the 1880s, however, mentally unbalanced prisoners from Keewatin and the North West Territories were transferred to Stony Mountain Penitentiary because of overcrowding at the Selkirk Asylum. Penitentiary authorities at Stony Mountain soon found that ordinary lunatics from the Territories were more numerous than they had expected.
In the early 1890s that class of persons was removed to an asylum at Brandon. By the end of the nineteenth century Manitoba Penitentiary had few insane persons of any type within its walls. By then, seriously unbalanced convicts from Manitoba Penitentiary were sent to Kingston Penitentiary.

At Kingston Penitentiary and at the other prisons of the system, lunatic convicts were housed apart from the other prisoners. The treatment of these unfortunate varied according to the degree of their affliction. One class of inmates were the mentally deficient, those of weak mind whom one warden termed "inoffensive fools". These prisoners were not kept in the insane wards but rather were confined in the prison proper. They were set at employment like rock breaking that demanded little intellectual prowess. One official suggested that the mental condition of these persons had led to their presence in the penitentiary. They "become a local nuisance in the parishes in which they reside, and are frequently sent here for long terms of imprisonment for crimes that in other cases...are not so severely punished". In the prison such feeble-minded individuals often posed a challenge to discipline because they frequently had little self-control and even less idea of right and wrong.

Only "hopelessly affected" inmates were classed as "insane". In the immediate post-Confederation period these persons were confined at Rockwood Asylum. The treatment of lunatics in that institution had something in common with the penitentiary regimen. Lunatics were confined in the asylum
and were isolated from the outside world. Church services were held on Sundays and were valued by Rockwood's medical superintendent as calming and soothing to the patients. Steady employment was provided for the insane; it was found to have "a most decidedly favourable effect on the patients, both mentally and physically". "The air and exercise attendant on farm work" were also viewed as aids in restoring the lunatics to mental health. The head of Rockwood Asylum appreciated the fact that farm work besides being curative, "is also one of the most remunerative at which they [the patients] could be occupied." The asylum, like the penitentiary, was to be run as economically as possible. At Rockwood Asylum, however, amusements and books were provided to divert the minds of the inmates. There were institutional similarities between Rockwood Asylum and Kingston Penitentiary but the asylum had the distinctive goal of making sick persons well.

Several conditions at the Rockwood Asylum were far from ideal. In 1874 the Directors judged its accommodation to be "not adequate". There was little provision, they found, for violent lunatics. Such persons had to be confined "in cells, or rather large cages, improvised for such purpose, in the garret or attic, which is badly ventilated and intolerably hot in summer." The lunatics in Rockwood were fed less than prisoners at the nearby penitentiary. The feeling was that the insane did not require as much to eat because their labour was not as arduous as that of convicts of sound mind. Despite these flaws the aim of the Asylum was in keeping with
the spirit of the day. At Rockwood "kindness and sympathy" were the tools to be employed to present "pleasing pictures to the mind, and, thus, dispel the morbid gloom that reigns here." "Well conducted Asylums were evidence of an advanced civilization", the Rockwood medical superintendent maintained. Clearly he felt his institution was in that van of progress.

The establishment of Rockwood Asylum in the pre-Confederation period was testimony to the belief that lunatic convicts should be treated as sick persons in a special environment apart from the prison. In 1877, however, negotiations were completed for the transfer of Rockwood Asylum to the jurisdiction of the government of Ontario; convict lunatics were henceforth to be housed at the nearby Kingston Penitentiary. Public prejudice against the association of non-criminal insane with deranged members of the "criminal class", was one important reason for the change. Through the remainder of the nineteenth century this prejudice worked against the confinement of convict lunatics in asylums. At Kingston Penitentiary a number of unbalanced prisoners were kept beyond their sentence release dates because their transfer to a provincial mental institution could not be arranged. The warden blamed public feeling against taking such prisoners out of the penitentiary as part of the problem.

This sort of public opposition arose in British Columbia in 1892 when Inspector Moylan arranged with the Premier of that province to have two insane penitentiary inmates, one Chinese and one Italian, transferred to the
provincial asylum in Victoria. The medical superintendent agreed to accept the Chinese lunatic because he could be kept in a separate Chinese ward, but the superintendent objected to the Italian. Not only was the latter violent, the head of the asylum argued, but there was a real risk "that the friends of the paying patients would take exception to Sencaïli [the Italian lunatic] being among them." Insane persons of Sencaïli's ilk were not welcome in provincial asylums of the day.

Life for the insane in Kingston Penitentiary was conditioned by a succession of unsatisfactory arrangements. Convicts transferred from Rockwood Asylum in 1877 were housed in one ward of the Kingston Penitentiary hospital as a temporary expedient. Although this was described as "very good accommodation" and included a "green grass plot" nearby for exercise, these quarters had few of the customary features of an asylum. By 1881 a new criminal lunatic asylum had been constructed within the penitentiary walls on the south side of the prison yard. Initially officials had nothing but praise for this building, claimed to be "well suited to its purpose", "lightsome, thoroughly ventilated, and solidly built". A few short years after its opening, however, the asylum increasingly became the object of a criticism that persisted sporadically through the rest of the century.

The inmates within the Kingston Penitentiary criminal lunatic asylum suffered under two exceptional conditions of life. The day room where the deranged patients spent much
of their time was a second storey room with the prison grist mill below. Those above were tormented daily by the vibration of the floor and the constant rumble of the machinery underneath. Compounding this trial was the absence of an adequate ground for exercising and airing prisoners bereft of reason. "The patients have no air or exercise for seven months, and but little of either during the other five months", Inspector Moylan reported in 1890. The "present surroundings of those "wretched beings" were "eminently calculated to intensify their misery", he judged. Even the sane prisoners suffered from the location of the asylum near the cell blocks. At intervals by day and night the screams of the deranged troubled their more fortunate fellows.

One answer to the unsatisfactory quarters for the insane at Kingston Penitentiary was the construction of a better criminal lunatic asylum. This alternative was pursued during the 1890s but ultimately came to nought. Another approach urged by many penitentiary officials was the removal of lunatic convicts to provincial asylums. "... Our insane here differ in no sense from the insane confined in the ordinary Insane Asylum", declared Dr. Michael Lavell, Warden of Kingston Penitentiary in 1890. His view, that the criminally insane should be treated like other mentally ill persons, was in harmony with the opinion of many others in that day who were interested in such social questions. The Prisoners' Aid Association of Canada for its part had long campaigned against the common practice of consigning the mentally ill to local
The trend was toward identifying such persons as sick rather than as criminal. At Kingston Penitentiary, however, no new arrangements were made for the insane. The penitentiary asylum, condemned by one prison reformer in 1901 as truly "criminally insane", continued to be the unsatisfactory repository for inmates bereft of reason.

Female convicts were a further important "group apart" within late nineteenth century federal penitentiaries. Although these inmates were kept separate from males in the prison, most of the same rules applied to prisoners of both sexes. Yet, the woman's experience in the penitentiary was unique in certain respects. Differential treatment was considered appropriate for the woman in some areas of prison life. Moreover, the physical environment for females was often inferior to the norm. As a result, life in the penitentiary held special difficulties for women.

Female convicts were very few in number in the late nineteenth century. As late as 1886 the Inspector of Penitentiaries, J.G. Moylan, was able to note with pride that no women had yet been convicted of a penitentiary offence in Manitoba or British Columbia. Four years later he remarked on the typical paucity of female convicts; that year there were only twenty-two in the whole Dominion. Most contemporary female crimes involved lesser offences like prostitution, not sufficiently serious to bring a term in the penitentiary.
The majority of women sentenced to federal prisons were confined at Kingston Penitentiary. Between 1885 and 1895 the standing policy was apparently to send female convicts throughout the Dominion to the penitentiary at Kingston. Those women who were confined as convicts at other prisons were very few in number and as a result often had to put up with makeshift or inadequate quarters. Kingston Penitentiary, with its separate female prison within the penitentiary walls, was considered specially equipped to handle such offenders.

The broad dimensions of the female convict's penitentiary experience were like those of the male. Women who could not read or write were instructed in school classes. Females were eligible for remission and gratuity money when those measures were in force. The same general penitentiary rules and regulations were applied to both sexes. For women, as for men, imprisonment was expected to be a punishment that would contribute as well to reformation. Within this framework women received distinctive treatment because of their sex. Women in prison were required to labour, but at tasks suited to a feminine nature. The belief in a "proper sphere" of women that restricted female employment opportunities outside the prison, had the same effect within the penitentiary walls. The woman's work in the prison was generally limited to sewing, weaving, knitting, mending, doing the laundry and cleaning, all of which were deemed suitable to her gentle nature, limited strength, and abilities, as well as her ultimate mothering role. Female convicts were generally well-
conducted in prison; consequently, only minor prison punishments were applied to maintain order among them. A distinctive sanction used to discipline women was the cutting of the hair. Presumably this was keenly felt by the female prisoner long taught to place great value upon physical beauty. Because of the importance of the mother to young children, female convicts were on several occasions in this period allowed to have babies with them in confinement. On the other hand, authorities were anxious to effect the transfer of such young persons to other appropriate institutions as soon as such removal was practical.

The greatest hardship for women in Kingston Penitentiary stemmed from the requirement on the ground of morality and order that they be kept strictly separate from male prisoners. Female prisoners at that institution were housed in discrete quarters on the east side of the north wing of the prison buildings. At the time of Confederation this female prison was recognized as an unsatisfactory and "temporary affair". It included cells and a dining hall on the one level and a basement below. The basement was damp and had to be kept dry with a stove in all seasons. Officials felt it was too easy for male convicts to see the occupants of the prison through its windows. The major shortcoming of this accommodation, however, was the lack of space for recreation and exercise. For this reason female prisoners, like insane inmates, were compelled to spend most of their time shut up indoors. Despite repeated recommendations that a new prison for women
be built outside the penitentiary walls, such a project was not pushed forward during the late nineteenth century.

Confinement in the penitentiary was a trial which prisoners as a whole braved in a variety of ways. Responses to imprisonment ranged from full cooperation with prison authorities, a course of conduct identified as "reformation", to active revolt against the penal system. Underlying the different accommodations of inmates to the prison experience was a widespread and primary desire to regain freedom. In reality much of the convict adjustment to imprisonment was a selection of ways to attain that compelling goal.

Once in the penitentiary, the convict faced a number of regulations and penal arrangements designed to alter his pattern of life. Some prisoners were unable to cope with this novel and highly depressing experience. A few reacted like one Kingston Penitentiary convict, James Wall, who was perpetually "in a state of abstraction, brooding over his circumstances". A surgeon at that institution claimed in 1871 that the incidence of madness in prison was higher than in free society. Though his evidence was not conclusive, there can be little doubt that imprisonment had a harmful effect on the reason of certain inmates. A very few prisoners inflicted physical punishment or mutilation upon themselves as did one prisoner at Kingston Penitentiary who deliberately twisted his legs out of shape during his term of confinement. The penitentiary system had its share of suicide, that ultimate expression of despair. In some instances prisoners took
their own lives because they had been frustrated in an escape attempt; for others, "melancholy" and "depression" were apparently the decisive factors.

A number of prisoners earned the praise of authorities for their good conduct and industry. Such convicts played a valuable role furthering the efficient operation of the prison. A Kingston Penitentiary warden described one such person as "honest and straightforward in all his acts, he has made himself more useful to me in the Penitentiary than any officer on the staff". Cooperative prisoners often performed special services in the penitentiary. Sometimes they were given positions of responsibility in departments of labour. Many had special skills to contribute. One inmate performed dental work during his term. A few well-behaved convicts were employed as servants to upper echelon officers. Still other prisoners proved their submissiveness to authority by reporting plans for escape to officers or actually helping to thwart such attempts in progress.

In sharp contrast to cooperative prisoners were other inmates who opposed the demands made by penitentiary officers. These prisoners were generally the hardened offenders, "some as unmitigated villains as ever escaped gracing a gibbet", as a St. John Penitentiary warden described them. One chaplain complained of such a prisoner:

...he sneers and scoffs at all religion, and denies there is a God, or a future state...He now thinks every hand is against him, and his hand, therefore, is against every man.

"Vulgar and indecent language" marked many of these men.
Disobedience to orders was another common feature. Moreover, a few convicts went the length of assaulting or bullying guards, as well as their fellow prisoners.

Opposition to some aspects of prison life went beyond the few "hard cases". It was manifested in various fashions. Some prisoners were free with complaints. At Kingston Penitentiary in 1890 inmates went the length of circulating a petition asking for alterations in the diet. The Inspector, upon investigation, declined their request, blaming the agitation on "old prison birds". At Dorchester Penitentiary two years later one inmate demanded five sheets of foolscap in order to make a statement of his own and his fellow prisoners' ills and grievances. The Inspector was convinced, not uncharacteristically, that "he [the prisoner] had really no ground for complaint". In February of 1886 thirteen Protestant convicts walked out of chapel at St. Vincent de Paul Penitentiary in sympathy with a comrade who had been ejected for insubordination. This was a direct expression of their feelings in the matter. Acts of vandalism within the prison, broken windows, damaged library books, and the like, can be viewed as a form of complaint as well.

One of the most remarkable instances of inmate resistance to prison authorities came in 1899 with a convict strike at Kingston Penitentiary. The warden of that institution was interrupted at dinner on February 23, 1899, by word that the binder twine crew refused to go to work. He returned hurriedly to the prison to find that one of the malcontents
had been consigned to the punishment cells and his fellows had resumed labour. The next day the warden assigned punishments to a number of members of the binder twine gang. Shortly after, the stone shed gang struck. At the warden's order these men were sent to the dungeons and dark cells. Immediately following this, the mason gang laid down their tools in a pattern of escalating disobedience. The frantic chief officer and his acting deputy rushed to the scene of that disturbance. They discovered that the convicts involved were intractable. These rebellious prisoners were sent with despatch to the Prison of Isolation to languish without light, on bread and water, until the warden ordered otherwise. The same punishment was applied to the blacksmith and stone pile gangs when they struck soon afterward. The cause of the strike was not recorded, but clearly a large number of convicts had been roused to an impressive, coordinated resistance during the affair. It was a trying time, indeed, for the warden and his staff. The convicts had provided an exceptional display of solidarity and hostility to authority.

Prison life differed in practice from what it was supposed to be in theory because convicts in many cases successfully broke, disregarded or evaded the rules. The rule of silence proved impossible to enforce fully despite vigourous efforts in that direction. The 1897 inquiry into St. Vincent de Paul Penitentiary brought to light many more shocking departures from what was expected to prevail in the prison. Trafficking between guards and convicts was common, as was
petty thievery on the part of prisoners. Convicts were allowed to make items for sale from prison materials. Certain inmates with access to extra food sold this to their fellows for a handsome profit. Some of the guards also offered food items to their charges, for a price. The convicts in the stone shed effectively ran that operation because an unskilled and easily manipulated officer was at their head. That stone shed gang disposed of considerable quantities of "waste" stone to their own profit. Inmates were able to cook food outside the kitchen with little risk of penalty. A convict-owned printing press was run in the change room, with the profit from outside printing jobs going to the prisoner who operated it. All of these remarkable abuses were part of a process in which prisoners took advantage of maladministration and lax discipline to secure as pleasant and profitable a prison existence as they could. For years at St. Vincent de Paul things were clearly not as they were supposed to have been.

St. Vincent de Paul Penitentiary in 1897 presented an extreme example of the breakdown of authority and discipline, but it was not, strictly speaking, an aberration. Many similar departures from the rules occurred at other penitentiaries, though on a reduced scale. In 1870 one Kingston Penitentiary convict who had no reason to lie, candidly admitted that stealing by inmates was a common occurrence within the prison. In 1890 the warden of that same penitentiary discovered a "feeing" operation that had been in
force for years. Convicts in the shoe and tailor shops were routinely extracting money from discharged prisoners and others for making their clothing. Another common, though officially banned, practice was the production and sale of bone carvings by prisoners. These and other deviations from the rules indicate that the strictness of penitentiary life fell short of the ideal expected by the public and their political representatives.

Many prisoners, plainly, did what they could to make the best of life in confinement. Nevertheless the major preoccupation of most inmates was to get out of prison. However lax the discipline, the prison experience was not pleasant. The widespread desire of the imprisoned to regain their freedom was a telling commentary on the punitive nature of life behind bars. As one man sentenced to death confided to his spiritual advisor:

*Before my trial I prayed many a time that I might be hanged, but not sent back to the Penitentiary.*

For that convict and for those who committed suicide, death was preferable to further confinement.

In their adjustment to prison, inmates in essence chose their routes to freedom. Well-conducted prisoners could hope for a reduction of their sentence as a reward for cooperation. Such rewards were not uncommon. The incurably ill prisoner could look for an early release as the unexpected side benefit of a terminal illness. Such a premature discharge from confinement was the usual practice in the
system. Many Indians were able to take advantage of this opportunity to die in freedom.

Escape was another path to freedom. Attempts to flee confinement were made regularly, but the number of successful escapes was not large. Nevertheless, the possibility of escape was a major preoccupation for staff and convicts alike, for different reasons.

Many of the prisoners who successfully fled captivity in the late nineteenth century simply ran away from places or work outside the penitentiary walls. Other convicts used great ingenuity in their quest for liberty. Two prisoners at Kingston Penitentiary dug a tunnel under the east wall over a long period of time and were able to use it undiscovered to effect their purpose. In 1881 four desperate convicts successfully broke out of the dungeon of that same institution. One of the four sawed through his cell door and released the others. Together they overpowered the dungeon guards and escaped across the ice to the United States. In this case it was all to no avail. American authorities apprehended the four and returned them to Canadian prison officials.

On Christmas Eve, 1889, a well-planned escape was put into effect by five prisoners at Kingston Penitentiary. These men were all employed in the bakery, a department kept open that night to prepare a special fare for Christmas day. After dark the five, overcame two guards and one keeper as well as two convicts who wanted no part in the attempt.
These captives were bound and gagged and locked in the bakery where they were unable to give the alarm. The fleeing inmates scaled the wall with a rope and grappling hook, prepared in advance, to make good their escape.

These successful flights were typical of others in the effort and forethought they involved. The thought of a sudden escape to freedom held a powerful attraction for prisoners in the penitentiary. Even those inmates who cooperated with the staff and had gained positions of trust, were not immune to the lure of escape when an opportunity presented itself.

An escape attempt was possible on the part of any prisoner, taking into account, as Inspector Moylan observed, "that the natural desire for liberty and the ways and means to carry it into effect, occupy the minds of most convicts, in their hours of wakefulness..."

Most escapes were carried out surreptitiously. Yet, the greatest fear of the penitentiary warden was the open convict revolt. These were rare but they did occur. In 1867 troops were called in to suppress a mutiny at Halifax Penitentiary. Three convict leaders were wounded before that uprising was quelled. Warden Bedson successfully employed a convict spy at Manitoba Penitentiary in 1882 to keep track of the planning of one outbreak. When the time for action came Bedson grappled with the ringleader. Guards appeared suddenly just as other prisoners moved to rush forward. What might have been a serious mutiny was contained.

In mid-June, 1889, the warden of Kingston
Penitentiary received reports of a "widespread and formidable" conspiracy in which it was planned to attack one of the gates with a battering ram. The authorities decided to make a show of force and then to inform the prisoners the game was over. On the day the outbreak was expected to occur fifty members of the local battery were brought into the prison and quartered quietly in the hospital and asylum. The prisoners returning to their cells from their workplaces that evening were met by the sight of the formidable battery contingent parading fully armed and ready for action in the main yard. Not surprisingly, no disturbance took place. The inspector judged the effect to have been most salutary.

The most serious convict revolt in late nineteenth century Canada broke out at St. Vincent de Paul Penitentiary in 1886. On a Saturday afternoon in April of that year the prisoners working in the stone shed and in the shoe and tailor shops overpowered the officers on duty, tied them up, and took their revolvers. The inmates in the stone shed also succeeded in capturing the keeper on duty in the yard, two other penitentiary employees and the warden, Godefroi Laviolette. After this success the would-be escapers made a ladder out of rafters and dragged it to the wall behind the blacksmith shop. Here the convicts met a hail of fire from the farm instructor and the guard of the farm gang, both positioned on the wall. Frustrated in this quarter, the mutinous prisoners rushed to the other end of the prison using the warden, and the steward, captured on the way, as shields. At this end of the
yard a high wooden fence served as a wall. In desperation the mutinous convicts tore at the fence with crowbars and other implements. They hoped that the two hostages would protect them from the fire of the guards who were by this time ranged fully against them. One convict was shot dead while another was wounded by one of the tower guards. The warden, too, was badly wounded before the forty-one prisoners who had taken part in the mutiny, surrendered.

This revolt and other lesser outbreaks were striking manifestations of the length to which some convicts would go to get free of the penitentiary environment. In part, that environment reflected the institutional character of the penitentiary. Significantly, though, the prison was a punitive institution in which conditions of life were only marginally bettered by positive inducements to convict reform. The rules and regulations giving content to penitentiary life were not fully enforced. Yet, they held away to a considerable extent. The determined attempts of prisoners to regain freedom demonstrates that for them the prison reality was a highly unpleasant one. Though Indians, the insane and female convicts faced special problems, confinement was not an easy experience for any inmate to endure.

The persistent convict quest for freedom was powerful evidence that penitentiary imprisonment was punishing. Whether incarceration was genuinely reformative for many inmates can be questioned. In confinement the convict chose his path to freedom on the basis of what would secure the best results.
Good conduct, or what some officials identified as "reformation", was one route to liberty that could be selected. Almost certainly such behaviour was only a vehicle for most prisoners who adopted it; it is doubtful that many inmates had much commitment to good conduct for its own sake. Even trusted prisoners on a number of occasions abandoned cooperation in favour of escape when the prospects of success in that course seemed good. In reality the convict experience in the penitentiary was more punitive than reformative. The convict was the object of elaborate penal arrangements but he was not a passive victim. The prisoners responded to penitentiary confinement in a variety of ways; in his own fashion each convict sought to be free of that place of trial.
Chapter Seven Footnotes

1 A very good discussion of the rise of the institution in the first half of the nineteenth century in the United States can be found in David J. Rothman, The Discovery of the Asylum: Social Order and Disorder in the New Republic (Boston and Toronto: Little Brown and Company, 1971). The author places too much stress on institutional development as a response to distinctive conditions in Jacksonian America. His discussion of common institution characteristics is very useful, however, and this aspect has been heavily drawn on in my discussion in this section.


5 Canada, Sessional Papers 1884, Vol. 9, S.P. no. 16, p. 17.


10 Rules and Regulations, 1870, sec. 371; Rules and Regulations, 1888, sec. 375.

11 Amounts of foods served daily at British Columbia in 1879, weekly diet at Manitoba Penitentiary in 1889, daily menu at Kingston Penitentiary in 1888, and Halifax Penitentiary diet in 1867.

12 Canada, Sessional Papers 1901, Vol. 12, S.P. no. 34, p. 46.

14 For example, see: C.S.C., Penitentiary Inspector's Minute Book, 1885 - 1894, Moylan at Manitoba Penitentiary, 3 October, 1889, p. 428.


16 C.S.C., Inspector's Minute Book No. 1, 1878 - 1892, Moylan, 23 October, 1878, p. 17; C.S.C., Kingston Penitentiary, Warden's Letterbook, October 18, 1889 - February 20, 1891, p. 178; Rules and Regulations, 1870, sec. 14; Rules and Regulations, 1888, sec. 28; Penitentiary Regulations, 1899, sec. 35. Specific information on the receiving procedure at each penitentiary 1867 - 1899 could not be obtained. The available evidence suggests, however, that the procedure outlined above was followed with few variations.

17 Canada, Sessional Papers 1891, Vol. 12, S.P. no. 12, pp. xii, 103. Inspector Moylan condemned this practice in his 1899 - 1890 report, and it is reasonable to assume it was discontinued.

18 The following information on the Manitoba Penitentiary daily schedule is taken from: Canada, Sessional Papers 1880, Vol. 8, S.P. no. 17, pp. 175 - 177.


20 Canada, House of Commons, Debates 1890, p. 38351. Hours of confinement were long in winter because of a seasonal lack of employment for inmates.

21 W. David Lewis, in From Newgate to Dannemora, p. 122, notes that the Sunday period of prolonged confinement was "one of the most dreaded periods of the week" for inmates of New York State's prisons in the 1820s and 1830s. There is little reason to think anything was different in this respect in Canada's post-Confederation penal system.


24. Ibid.

25. See Chapter Two above, p. 75. In his 1890 - 1891 report Inspector Moylan reported with pleasure that, "the demolition of the first built or south wing, has been authorized", by the Minister of Justice "in view of commencing the reconstruction of the cells [of Kingston Penitentiary] according to modern plans and dimensions." Canada, *Sessional Papers 1892*, Vol. 12, S.P. no. 18, p. xx.


27. Ibid., p. 186.


30. As well as individual cells, the prison structure itself, was confining. One guard at Kingston Penitentiary complained in 1866 that, "I left the Toronto asylum on account of the confinement and this is more confined than it was..." If a man free to leave at the end of the day felt this way, what must the feelings of the convicts have been? P.A.C., Macdonald Papers, James Allan to G. McMicken, 30 June, 1886, pp. 104738 - 104740.


33. Ibid., p. 186.


The fact that Kingston Penitentiary cells often had damp floors was noted by Inspector Moylan in 1887. *C.S.C., Penitentiary Inspector's Minute Book, 1885 - 1894*, pp. 229 - 230. The basement cells of Manitoba Penitentiary were "uninhabitable through dampness" in a heavy rain in the early years and British Columbia Penitentiary had similar problems with water. See, Chapter Two above, pp. 69 - 70.

W. David Lewis, in his study of the New York State prison system in the first half of the nineteenth century, found that convicts eagerly sought to participate on work details on Sunday to alleviate the long confinement on that day. It is reasonable to assume that in later years in Canada as well, prisoners welcomed breaks from long hours in their cells. Lewis, *Newgate*, p. 122.


Ibid., Moylan at Kingston Penitentiary, 30 May, 1891, p. 510.


*C.S.C., Inspector's Minute Book No. 1, 1878 - 1892*, Moylan, 18 September, 1885, pp. 99 - 100. Certain classes of convicts were not adequately exercised. This is discussed below.


51. Undoubtedly the belief that the prison should be punitive and deterrent was the main factor limiting such indulgences to convicts. In 1895, however, Kingston Penitentiary's Acting Warden stated a more specific reason for rejecting an offer from an outside company to perform a noon hour concert. Such a diversion was unsuitable, he asserted, because "it would completely upset the routine of the day..." C.S.C., Kingston Penitentiary, Warden's Letterbook, W. Sullivan to W.E. Phillips, 17 October, 1895, p. 802.

52. In 1866 there were 137 cases of typhoid fever at Kingston Penitentiary and seven deaths. One year later there were 124 cases and two deaths. Canada, Sessional Papers 1868, Vol. 8, S.P. no. 40, p. 7.


Canada, Sessional Papers 1877, Vol. 8, S.P. no. 15, p. 86.
Ibid., p. 55.
P.A.O., Blake Papers, General Canadian Political Correspondence, Moylan to Blake, 2 September, 1875.
C.S.C., Kingston Penitentiary, Warden's Letterbook, 1881 - 1884 , Creighton to Fitzpatrick, 19 October, 1881, pp. 275 - 278.
James Noxon, Oliver Kelly Fraser, and David A. Lafontaine.
Canada, House of Commons, Debates 1898, p. 7346.
P.A.C., Solicitor General's Department, Vol. 40, File 3-20-10, 'Commissioners' Report on St. Vincent de Paul Penitentiary', p. 27.
C.S.C., Kingston Penitentiary, Warden's Letterbook, June 28, 1897 - January 10, 1898 , Metcalfe to W.S. Hughes, 11 August, 1897, p. 224.

78 See, for example: Canada, Sessional Papers 1885, Vol. 8, S.P. no. 15, pp. 80 - 81; P.A.C., J.S.D. Thompson Papers, Vol. 37, Cloutier to Minister of Justice, 10 April, 1886.


80 See, for example: Canada, Sessional Papers 1883, Vol. 11, S.P. no. 29, p. 135; Canada, Sessional Papers 1885, Vol. 8, S.P. no. 15, pp. 80 - 81.


83 Dale and Lee Gibson in their study, Substantial Justice: Law and Lawyers in Manitoba 1670 - 1970 (Winnipeg: Peguis Publishers, 1972), p. 120, suggest that the federal government did not house the insane of the province in the new penitentiary and that the Lower Fort Garry institution was used for that purpose. On December 17, 1875 the Justice Department did turn down a Manitoba request that insane persons be housed in the new penitentiary but the evidence suggests that this decision was later reversed. P.A.C., Department of Justice, A3, Vol. 22, 17 December, 1875; P.A.C., Department of Justice, A2, Vol. 49, File 3474, Z.A. Lash, 25 June, 1881.

84 Canada, Sessional Papers 1885, Vol. 8, S.P. no. 15, p. xiii.


87 Canada, Sessional Papers 1880, Vol. 8, S.P. no. 17, p. 34; Canada, Sessional Papers 1884, Vol. 9, S.P. no. 16, p. 46; Canada, Sessional Papers 1887, Vol. 4, S.P. no. 4, pp. 63 - 64.

Ibid., p. 36.


Ibid., p. 5.


Ibid.


See Chapter Two, above, pp. 72 - 3.


C.S.C., Inspector's Minute Book No. 1, January 14, 1878 - October 22, 1892, Moylan, 22 October, 1892, pp. 204 - 205.

C.S.C., Kingston Penitentiary, Warden's Letterbook, 1876 - 1879, Creighton to Moylan, 5 July, 1877, p. 204.


C.S.C., Kingston Penitentiary, Warden's Letterbook, October 18, 1898 - February 20, 1891, Lavell to Moylan, 14 August, 1890, pp. 420 - 423.

By 1892 money had been voted by Parliament for construction of a new asylum. Difficulties were encountered, however, in deciding upon a location on penitentiary property. The project was indefinitely postponed because of the need for convict labour at Kingston Penitentiary for other building projects.

P.A.O., Annual Report of the Prisoners’ Aid Association of Canada for 1886, p. 3.

This remark was made by A.E. Lavell, son of the former Kingston Penitentiary warden, Dr. Michael Lavell, to an annual meeting of the Prisoners’ Aid Association in 1901. P.A.O., Annual Report of the Prisoners’ Aid Association of Canada for 1899 - 1900, pp. 31 - 32.

Canada, Sessional Papers 1887, Vol. 4, S.P. no. 4, p. xi.


Women, too, were socialized to a passive, restricted role much less likely to bring them into conflict with the law.

Canada, Sessional Papers 1886, Vol. 11 S.P. no. 15, p. xxvii; Canada, Sessional Papers 1896, Vol. 11, S.P. no. 18, p. 15; Canada, Sessional Papers 1897, Vol. 12, S.P. no. 18, p. 44. Female prisoners were sent to Kingston Penitentiary from St. Vincent de Paul Penitentiary and the Dominion gaols earlier than that. Canada, Sessional Papers 1880 - 1881, Vol. 9, S.P. no. 65, p. 31.

For example, see: Canada, Sessional Papers 1882, Vol. 7, S.P. no. 12, p. xxx.


See, for examples: C.S.C., Kingston Penitentiary, Warden’s Letterbook, June 28, 1897 - January 10, 1898, Metcalfe to Miss Fahey, 21 September, 1897; Ibid., Metcalfe to Stewart, 9 September, 1897, p. 359; Ibid., Metcalfe to Mrs. Catherine Fraser, 7 October, 1897, p. 500.


Insane female convicts were also confined in the female prison where their wailing and screaming provided an additional trial for their sane fellows.


[P.J. Loizeaux], A Short Account of the Lord's Dealings with the Convict Daniel Mann Who was executed at Kingston, Canada, December, 1870, pp. 13 - 14.


C.S.C., Penitentiary Inspector's Minute Book, 1885 - 1894, Moylan at Kingston Penitentiary, 29 April, 1892, p. 563.

Loizeaux, A Short Account, pp. 10 - 11.


C.S.C., Kingston Penitentiary, Warden's Letterbook, October 18, 1889 - February 20, 1891, Lavell to ______, 25 December 1889, pp. 74 - 84.


P.A.C., Macdonald Papers, W.J. Williams to Governor General, 22 August, 1867, pp. 29095 - 29096.

P.A.C., Department of Justice, A2, Vol. 55, File 6, Warden, Manitoba Penitentiary, to Inspector, 23 December, 1882.


Ibid., Moylan at St. Vincent de Paul Penitentiary, 30 April, 1886, pp. 87 - 88.
CHAPTER EIGHT

CONCLUSION

The penal institution in British North American originated in the early nineteenth century. The penitentiaries founded at that time were part of a broader, largely unprecedented institutional approach to social problems. Although each of the three colonies that joined together as the Dominion of Canada in 1867 operated penitentiaries, it was the penal practice of the Province of Canada that inspired federal prison arrangements after Confederation. Much of that early prison heritage was established between 1832 when the construction of the Provincial Penitentiary near Kingston was planned, and 1859 when the creation of the Board of Inspectors of Prisons, Asylums and Public Charities culminated a long development in the administration of the province's penal institutions.

Much of the character of a penitentiary is shaped by its plan of convict management. Upper Canadian authorities selected the Auburn prison discipline system, pioneered in New York State, for the Provincial Penitentiary near Kingston. This Auburn plan featured the provision of congregate labour by day and the employment of architectural and disciplinary devices to ensure the separation of convicts. It gave the
promise of punishing prisoners while at the same time encouraging their reform. Further, by opening the way to contract labour the Auburn system bid fair to reduce the public expense invariably connected with the operation of a penitentiary.

In the years that followed the founding of the Upper Canadian penitentiary a number of departures from the Auburn regimen were introduced. This process was accelerated by the 1849 inquiry into the Provincial Penitentiary, an inquiry sparked by reports of abuses at that institution. By 1859 reformative measures of the prison had been strengthened; the chaplain had been made a full time officer, overseers had been appointed to instruct convicts in trade skills, and a school master had been hired. Yet, many features of Auburn discipline persisted in company with these later innovations. The rule of silence, congregate labour, and the customarily garish prison garb were some of the Auburn components long employed in the penitentiary despite a waning commitment to the Auburn system as a whole.

The general pattern of operation at the Provincial Penitentiary was set in its first years. From the start, prison life owed much to the institutional character of the penitentiary. Prisoners were isolated from the outside world within a controlled environment marked by seldom varying routine. Detailed rules were framed to regulate the lives of staff and convicts alike. Prison architecture furthered the separation and control of the inmates. The organization of penitentiary staff along hierarchial, paramilitary lines was
an early development. This staff structure was suited to meeting the crisis situations expected at a prison. Government control of the penitentiary was exercised through an appointed board, in harmony with the general approach to social welfare administration in that day. In 1859, in a consolidation of a familiar form of control, a single board was created to oversee prisons, asylums and public charities in the province of Canada. By that time the Provincial Penitentiary was a well-established institution.

Through the 1860s the five members of the centralized Board of Inspectors advocated the introduction of a new form of penal discipline at the penitentiary. The Irish Crofton system was urged as a potential advance in the treatment of convicts in Canada. As a variety of reformatory prison discipline, the Irish plan incorporated penalties and privileges within an all-encompassing regimen designed to ensure the punishment and reformation of felons. The advocacy of the Crofton plan by the pre-Confederation Board of Inspectors had a significant impact on the post-Confederation penal system; Crofton theory inspired the introduction of many new penal practices at Canada's federal penitentiaries in the first years after 1867. The broader reformatory prison discipline approach, of which the Irish convict plan was a part, provided further theoretical inspiration for penal innovations in the federal penal system between 1867 and 1899.

It has been argued that the Canadian public service can fruitfully be viewed as a system forced to respond to both
"input from the environment" and "internally generated demands", in its operation. As parts of an institution sub-
system within that larger public service, Canada's late nine-
teenth century penitentiaries were also shaped by internal
and external pressures. The resulting change in the penal
system between 1867 and 1899 was multifaceted. The late nine-
teenth century was a time of significant development for
the Canadian federal prison system.

Many of the penal practices introduced into federal
prisons in the late nineteenth century were designed to fur-
ther the goal of convict reformation. The post-Confederation
Board of Directors, in particular, felt that positive incen-
tives were required to reclaim the occupants of Canada's
federal penitentiaries. Remission and a range of privileges
were instituted on this ground. Libraries and convict instruc-
tion were expanded after 1867. In 1899 parole was inaugurated
for federal convicts as an additional incentive to good con-
duct. At Confederation punishment had been the major means
influencing convict deportment; by 1899 a number of rewards
were in place to further convict cooperation in a less
punitive fashion.

The penal system amply ensured the punishment of all
those in confinement. Prison authorities and politicians
were able to introduce rewards with equanimity because of
this context of assured punishment. Prison penalties remained
one basis of discipline through the late nineteenth century
but those penalties did not remain static. The use of
flogging within the system declined, in part because of a contemporary ideal of humanitarian progress. More importantly, by the end of the century certain convicts faced extraordinary punishment in confinement because of their records, while first offenders enjoyed the prospect of early release on parole. Reformatory prison discipline prescribed the application of penalties and incentives on the basis of the prisoner's conduct in the penitentiary. Canadian penal practice moved away from that model in the 1890s in response to the increased recognition of the importance of different degrees of criminality.

Much of the penitentiary reality was conditioned by the need to punish and the wish to reform. Yet, other demands also contributed to changes in the system. The geographic expansion of federal penal jurisdiction and the consequent increase in the number of convicts to be confined, prompted the construction of new penitentiaries. The difficulty of administering the far flung, highly parochial penitentiaries of the post-Confederation era prompted an increasing centralization of authority over the penitentiary system. The growing rationalization of penitentiary operation and procedure in the same period reinforced the pattern of administrative centralization. The thrust of administrative developments was towards making the disparate federal penal institutions of the day parts of a unified, homogeneous system.

Why did the federal penal system develop as it did between 1867 and 1899? On one level the answer lies in the opportunity for change that accompanied the creation of a
federal jurisdiction over penitentiaries at Confederation. The pre-Confederation Board of Directors had long urged the introduction of reformatory prison discipline into the penitentiary under their control. The need to provide for the operation of penitentiaries placed under federal authority in 1867 gave the board, and in particular, its chairman, E.A. Meredith, the freedom to inaugurate many of the practices they had so ardently championed before. The effectiveness of the denial of privileges as a punishment allowed the diminishing use of the lash in the years that followed. The problems experienced in controlling a continent-wide system encouraged rationalization and centralization in administration. The creation of a federal penal jurisdiction at Confederation provided a new beginning for the penitentiary system and set alterations in motion.

On another level changes in the penal system occurred because that system was a reflection of the larger Canadian environment. In the last two decades of the nineteenth century a new middle class, composed largely of professionals, rose to prominence in the urban setting in central Canada. Its members participated in a broad effort to deal with the social problems produced by the processes of industrialization and urbanization. This class applied bureaucratic values in its cause of reform. The application of those same values in the penitentiary sphere was promoted by this larger social development.
In the area of penal administration the tendency was towards a uniform pattern of operation. This was a natural development in what was intended to be a single, centrally directed system. In the application of rewards and punishments, on the other hand, differences among convicts became increasingly important. This was not a departure from the bureaucratic thrust evident in penal administration. Uniformity prevailed in the measures applied to inmates of the same type. The identification of various categories of prisoners was a pragmatic response suited to professionals seeking to manage problems rather than trying to impose a single all-encompassing solution. In the general improvement effort, reformers were moved to specialization by their professional backgrounds and by the scale of organizations in the city. The recognition of varieties of convicts was a reflection of that broader approach.

The reformatory prison discipline approach, like the Auburn system before it, constituted an attempt to fashion many aspects of prison life according to one overall plan of convict treatment. The twentieth century approach to the reformation of prisoners was typically more pragmatic and limited in scope. The shift to this new course was evident by the 1890s. Yet, despite the departure from the single disciplinary stream of reformatory prison discipline, that theory continued to inspire specific
innovations through the decade. Ticket-of-leave legislation in 1899 represented a final implementation of reformatory prison discipline techniques.

Late nineteenth century development in Canada's penitentiary system has been interpreted in different ways. One view presented by an early twentieth century penologist, C.W. Topping, among others, was that change in the system after 1867 was progressive. This was the belief of those upper echelon officials and reformers who urged alterations in the system at the time. Yet, from the perspective of the present day, the theme of progress in late nineteenth century penal development is inadequate. There was no inevitable advance in prison practices in the period. There was change but there is no evidence that change meant consistent improvement. Despite the activity of reformers, the possibility of rehabilitating recidivists had been largely dismissed by the end of the century. The reduction of flogging was in line with the dictates of humanity, but the addition of six months solitary confinement in the 1890s for certain classes of prisoners was a backward step by that same criterion of judgement. The prison system, like society, was evolving, but its direction of change was not necessarily progressive.

It has been argued that the goal of correcting the offender slowly gained acceptance in the nineteenth century in Canada and elsewhere. This is a variation of the contention that prison development was progressive. Implicit in this claim is the assumption that an increased emphasis upon convict
reform was an improvement over earlier less civilized goals for the penal system. In fact, the validity of this contention is limited. The belief that convicts should be reformed was always linked to the penitentiary in British North America; it was one of the goals of that institution from its beginning. The attempt to redeem the convict did receive special stress at different points in the later development of the penal system. This was the case when the Brown Commission presented its report in 1849, when the Board of Inspectors and then, the Board of Directors, urged changes and implemented many of them in the name of convict reformation, and when the Prisoners' Aid Association demanded a reformatory for youthful offenders in the 1890s. By the 1890s, however, the full recognition of degrees of criminality contributed to a belief that only a portion of the contemporary convict population might be readily rehabilitated. This represented a significant reduction in the scope of efforts to reform. Moreover, nineteenth century attempts at prisoner rehabilitation occurred within a context of prominent penal severity. The evidence suggests that punishment was a more basic objective than reformation. The contention that the correctional aim was increasingly accepted in the nineteenth century must be tempered by a recognition of the theoretical importance of punishment in the same period and by an acknowledgement of the punitive reality of prison life in that day.
It is clear, too, that while the penal system changed in many specific ways between 1867 and 1899, other basic penitentiary realities remained unaltered. One contemporary authority has contended that the basic principles underpinning Canadian penal legislation and penitentiary regulations were constant between the time of Confederation and 1960. Through the late nineteenth century at least, the basic goals of punishment and reformation were both consistently prominent, although the stress placed upon each did fluctuate over time. These persisting demands on the system were one source of stability within it.

Another static aspect of the prison was its character as an institution. Although many specific features of life in confinement were altered in conformity with evolving ideas on how the prison should function, the institutional character of the penitentiary endured. Prisoners were always to be isolated within a special environment characterized by order and regularity. On practical grounds alone, institutional techniques for controlling and directing the lives of large numbers of inmates could not be eliminated easily. In fact, penitentiary authorities displayed no desire to expunge the institutional features of the prison.

Another static reality amid the evolution of specific penal practices, was the class-directed nature of the penitentiary system. Federal prisons confined the powerless and disadvantaged of contemporary society in disproportionate numbers. The system was geared to dealing with a labouring class inmate, although penal methods changed they were always framed with labouring class prisoners in mind.
Stern measures were deemed necessary to meet the threat which the "criminal class" posed to Victorian values. Yet, convict reformation was sought as well. The theory of reformatory prison discipline united both objectives in harmony. Pessimism grew through the late nineteenth century about the possibility of redeeming adult offenders, particularly recidivists. For these latter persons additional punishment was applied by the 1890s. First offenders, on the other hand, were given hope for an early release. Yet, life in confinement was a harsh experience for all inmates. For the individual prisoner this was the penitentiary reality that changed little through the period.
Chapter Eight Footnotes


Appendix A

FEDERAL PENITENTIARY POPULATIONS, 1867 - 1899

Note: Convict population figures represent in most cases the penitentiary populations at one point in time during the year. Up to 1877 that point was midnight, December 31. From 1877 population figures are those at midnight, June 30. Some figures, indicated by the symbol "A", indicate only "number of convicts". In those instances no point in time was specified.

Legend: *: figures not available; A: "number of convicts";
B: Includes prisoners with terms less than two years.
John Penitentiary: St. J.P.; Dorchester Penitentiary: D.P.;
St. Vincent de Paul Penitentiary: St. V.P.; Manitoba Peniten-
tiary: M.P.; British Columbia Penitentiary: B.C.P.

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Sources: Board of Inspectors of Asylums, Prisons, etc., Report 1867; Directors of Penitentiaries, Reports 1868 - 1874; Reports of Minister of Justice as to Penitentiaries, 1875 - 1899.
### Appendix A (continued)

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Sources: Board of Inspectors of Asylums, Prisons, etc., Report 1867; Directors of Penitentiaries, Reports 1868 - 1874; Reports of Minister of Justice as to Penitentiaries, 1875 - 1899.
Appendix B

A COMPARISON OF PENITENTIARY POPULATIONS WITH CORRESPONDING POPULATIONS AT LARGE FOR SELECTED YEARS

Introduction:

All the figures below indicate the proportional representation of certain categories of persons as percentages of specified populations. Different classes of prisoners are noted as percentages of the total population of the prison involved in each case. Census groups are examined as parts of those provincial populations from which corresponding penitentiaries received their prisoners. With respect to occupations the assumption has been made that job classifications had similar, well accepted meanings in both penitentiary and census statistics. This assumption, admittedly, is open to question and not to proof. This is one reason why the findings indicated by the following statistics should be treated as suggestive rather than conclusive. With regard to the 1891 census in which many occupation sub-divisions were employed, the penitentiary category "labourer" has been taken as including the following census classifications: "farm labourers", "domestic labourers" and "railway labourers". This equation has been made on the ground of probability rather than on the basis of conclusive evidence.

The occupation and nationality categories examined do not comprise the entire range of categories employed in the penitentiary returns. Only those nationality or occupation groups
that were present in the prisons in significant numbers have been selected for comparison.

Census statistics on "birth-place" have been used in examination of the origins of prisoners. Penitentiary returns indicated origin variously under the headings "country", "nationality" or "birthplace". Penitentiary data for the 1900-01 fiscal year suggests that "nationality" and "country" may have been considered equivalent to the category "where born" in penitentiary record keeping. If, in fact, the "nationality" and "country" categories in prison statistics were broader than the census "birthplace" category, this would affect the "Canadian" nationality group most. Within the "Canadian" nationality group, after all, one would expect to find the largest component of naturalized citizens. Yet, the statistics show that Canadians were proportionally underrepresented in federal penitentiaries of the day. Even if the penitentiary categories, "country" and "nationality", were broader than the census "birthplace" grouping, the finding of Canadian underrepresentation would not be undermined.

Several non-Canadian nationality groups were apparently overrepresented in penitentiaries, in comparison with their numbers in the population as a whole. Even if the penitentiary return categories "nationality" and "country" indicated citizenship rather than "birthplace", the finding of foreign overrepresentation in prison would not be invalidated. Any foreign "nationality" group might have included some naturalized citizens. That addition would almost certainly have been offset,
however, by a decline in foreign "nationality" numbers as a result of the Canadian naturalization process.

In some cases, particularly with respect to convict literacy, data was not available. Questions remain about the equation of penitentiary and census categories. The thoroughness of the census process is also in doubt. These facts detract from the conclusiveness of results. Nevertheless, the significant proportional differences in certain instances are important indications of the make-up of the populations of Canada's late nineteenth century penitentiaries.

NOTE: The following letters have been employed to further define the character of general convict populations considered:

A. - Figures concern all convicts received during the year.

B. - Female convicts are included in the convict population considered.

C. - Figures apply to all convicts in confinement at the end of the year.

The following abbreviations have been used for penitentiary names:

Kingston Penitentiary
Halifax Penitentiary
St. John Penitentiary
Dorchester Penitentiary
St. Vincent de Paul Penitentiary
Manitoba Penitentiary
British Columbia Penitentiary

K.P.
H.P.
St. J.P.
D.P.
St. V.P.
M.P.
B.C.P.

Sources: Directors of Penitentiaries, Reports 1870, 1871;

Reports of the Minister of Justice as to Penitentiaries, 1880-1881, 1890-1891, 1900-1901.
## Occupations:

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### 1880-81

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NOTE: 1880-1 Occupation percentages for M.P. and B.C.P. are a little misleading because of the small number of convicts confined at those institutions in that year. Both had only been open for a few years by 1880-1. The same difficulty is present to a lesser extent with H.P. 1870 and 1871 percentages.
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| Laborers          | 32.5          |                     |
| Carters           | 4.9           | 12.8                |
| Painters          | 3.7           | 3.3                 |
| Clerks            | 3.1           | .8                  |
| Farmers           | 2.6           | 43.7                |
| Shoemakers        | 6.5           | 1.6                 |
| Tailors           | 2.5           | .4                  |
| Accountants       | .9            | .7 Bookkeepers & Accountants |
| Advocates         | .6            | .4 Lawyers and other legal pursuits |

| Laborers          | 65.0          | 12.5 (P.E.I., N.S. & N.B.) |
| Shoemakers        | 4.7           | .8                    |
| Tailors           | 2.9           | .4                    |
| Farmers           | 2.9           | 42.1                  |
| Carpenters        | 2.9           | 3.4                  |
| Sailors           | 2.3           | 1.8                  |
| Soldiers          | 2.3           | .1 Soldiers, Sailors & Marines |

| None              | 32.3          |                     |
| Laborers          | 9.8           | 15.5                 |
| Farmers           | 9.8           | 52.1                 |
| Cooks             | 7.0           | -                    |
| Cowboys           | 2.8           | -                    |

| Laborers          | 46.7          | 17.2 (B.C.) |
| Cooks             | 8.2           |             |
| Farmers           | 1.8           | 11.6             |
| Sailors           | 6.4           | 1.6             |
| Miners            | 3.6           | 10.2             |
| Carpenters        | 3.6           | 4.5 Carpenters & Joiners |
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NOTE: The striking over-representation of those from the British Isles in Halifax Penitentiary may be partially accounted for by the fact that the prison was used to house military prisoners drawn from the British forces stationed at Halifax.

### Origin: 1880-81

<table>
<thead>
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<th>&quot;Country&quot;</th>
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<th>Census 1891 (B.C.)</th>
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**Literacy:**

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<td>Write (When admitted)</td>
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1901

<table>
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</table>

* Males age twenty and over
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